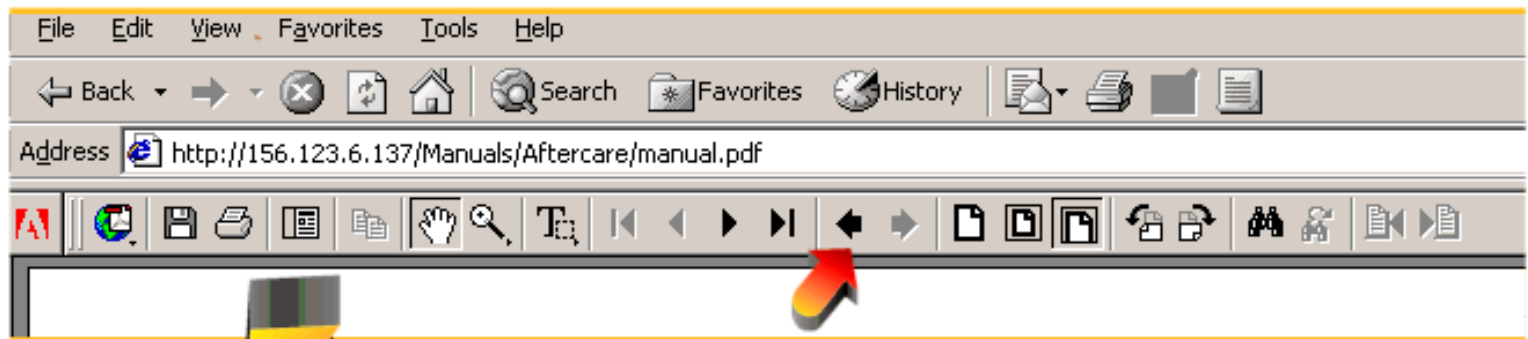
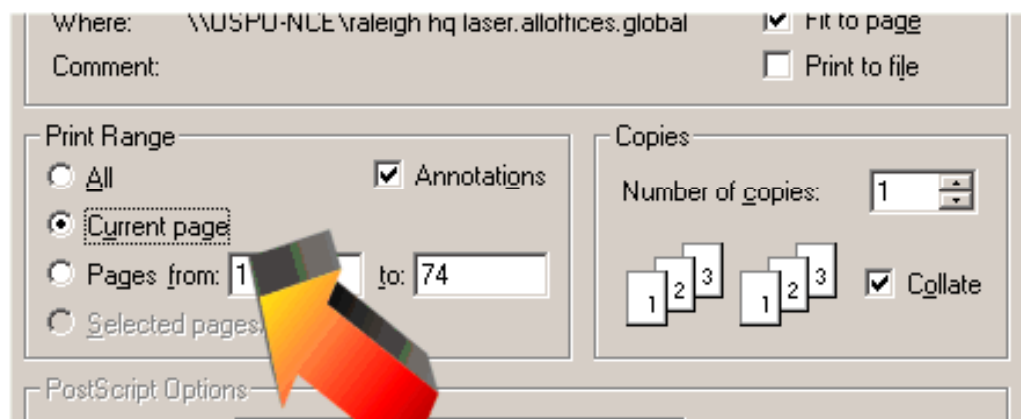


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**THE EASTERN DISTRICT OF NORTH CAROLINA'S  
JUVENILE PROCEDURES IN FEDERAL COURT**



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## **Table of Contents**

<b>Chapter 1 -</b>	<b>Introduction Background</b>
<b>Chapter II -</b>	<b>U. S. Attorney’s Juvenile Procedure</b> 1. Sample Documents <ul style="list-style-type: none"> <li>a. Certification Juvenile Plea Agreement</li> <li>b. Notice of Filing of Certified Copies of Juvenile Record</li> <li>c. Filing of Juvenile Records</li> <li>d. Juvenile Information</li> <li>e. Motion for Psychological Evaluation</li> <li>f. Juvenile Plea Agreement</li> </ul>
<b>Chapter III -</b>	<b>U. S. Pretrial Services Juvenile Procedure (including Pretrial Diversion)</b> 1. Sample Documents <ul style="list-style-type: none"> <li>a. Notice to Juvenile</li> <li>b. Authorization to Release Information</li> <li>c. Juvenile Waiver of Protection</li> <li>d. Pretrial Services Report</li> <li>e. Juvenile Worksheets</li> </ul>
<b>Chapter IV -</b>	<b>Defenders Juvenile Procedure – Tips for the Juvenile Defense Attorney</b>
<b>Chapter V -</b>	<b>U. S. Probation Juvenile Procedure and Sentencing Options (including violations, fingerprinting, and photographing)</b> 1. Sample Documents <ul style="list-style-type: none"> <li>a. Use of Juvenile Records Notice</li> <li>b. Worksheets &amp; Substance Abuse Assessment</li> <li>c. Authorization to Release Information</li> <li>d. Presentence Report &amp; Recommendation - with Sample Language</li> <li>e. Violation Report</li> <li>f. Modification of Probation</li> <li>g. Order Revoking Probation</li> </ul>
<b>Chapter VI -</b>	<b>Juvenile Sentencing Procedures</b> 1. Sample Documents <ul style="list-style-type: none"> <li>a. Letter adopting Juvenile Judgment in Eastern District of North Carolina</li> <li>b. Juvenile Judgment and Commitment Order</li> </ul>
<b>Chapter VII -</b>	<b>U. S. Marshal Service Juvenile Procedure</b>

**Chapter VIII -U. S. Bureau of Prisons Juvenile Designation Procedure**

- a. Policy Statement
- b. Time Served Credit
- c. Mental Health Testing Facilities
- d. Local Mental Health Professionals
- e. Juvenile Detention Facilities

**Chapter IX - Relevant Juvenile Case Law**

1. U. S. v RLC, 503 U.S. 291, 112 S.Ct. 1329 (sentencing)
2. U.S. v DH, 12 F. Supp. 2d 472 (time served credit)
3. U. S. v John Doe, 53 F.3d 1081 (supervised release)

**Chapter X - Magistrate Judge's Authority Class A Misdemeanors**

1. Administrative Office Memo
2. 106<sup>th</sup> Congress Congressional Act
3. Delinquency Proceedings - Bench Book (in Judges manuals only)



## **Chapter 1 - Introduction**

At the request of our court, and in an effort to streamline the process by which juvenile offenders are processed in the federal court of the Eastern District of North Carolina, several agencies have joined together to identify and document juvenile procedures. During the course of two years, the Juvenile Work Group met regularly to create a procedural manual intended to assist all federal agencies in this district who service juvenile offenders. The Juvenile Work Group documented process, created forms, and researched issues unique to juvenile offenders. This manual is the culmination of all of our efforts.

This manual will be maintained by the U. S. Probation Office; however, comments and suggestions can be provided to any of the following work group members:

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This procedure manual contains sample documents that are accurate as of May 15, 2001. For the most current version of these documents, please contact the respective agencies noted above or visit our web site at : <http://www.ncep.uscourts.gov>

May 2001  
First Edition

**Background**

**A GUIDE TO THE FEDERAL JUVENILE JUSTICE SYSTEM**

**Prepared by the Office of the Federal Public Defender  
Eastern District of North Carolina**

**FEDERAL PUBLIC DEFENDER**

**March 1999**

## **ACKNOWLEDGMENTS**

**This guidebook is written from the defense perspective. We gratefully acknowledge, however, Felice McConnell Corpening, Assistant United States Attorney, Office of the United States Attorney for the Eastern District of North Carolina, and Major Robert J. Muise, U.S.M.C., Special Assistant United States Attorney, for sharing with us their expertise in and their extensive knowledge of the operation of the juvenile system. Although we do not expect that they, as prosecutors, will endorse any or all of the observations we have made or the conclusions we have reached, their assistance has proven invaluable towards our efforts to produce this book.**

# **JUVENILES IN FEDERAL COURT**

## **Section 18 U.S.C. 5031 et seq.**

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### **I. Introduction**

The Federal Juvenile Delinquency Act (FJDA) sets forth the statutory procedure for the adjudication of delinquency when a juvenile is proceeded against as a juvenile, and not as an adult, in the federal system. The FJDA embraces most of the constitutional safeguards enjoyed by adults. Supreme Court decisions within the past thirty-five years provide the background for these constitutional safeguards. In *Kent v. U.S.*, 383 U.S. 541(1966), the Supreme Court held that juveniles are constitutionally entitled to due process and to representation by counsel. A year later, *In re Gault*, 387 U.S.1 (1967) provided juveniles with a right to notice of the charges against them, a right to counsel, a right to the privilege against self-incrimination, and a right to confront and cross-examine witnesses. *In re Winship*, 397 U.S. 358 (1970) held that proof beyond a reasonable doubt was the proper standard for juvenile delinquency proceedings when the juvenile is charged with an act which would constitute a crime if committed by an adult. In *Breed v. Jones*, 421 U.S. 519 (1975), the Court held that the double jeopardy protections provided by the Fifth Amendment also apply to juveniles tried in juvenile court. The only constitutional protection that the Supreme Court has specifically denied to juveniles is the right to a jury trial. *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971). In *U.S. v. Hill*, 538 F.2d 1072 (4th Cir. 1976), the Fourth Circuit acknowledged the holding in *McKeiver* and further held that a juvenile is not entitled to indictment by a grand jury. Consistent with *McKeiver*, the federal statute, 18 U.S.C. § 5032, provides for proceeding against a juvenile by information.

In summary, the following Constitutional protections are recognized for juveniles:

**Due Process** -- Standard is "fundamental fairness," *Kent* and *McKeiver*;

**Right to counsel** -- *Kent* and *In re Gault*;

**Right to notice of charges** -- *In re Gault*;

**Right to privilege against self-incrimination** -- *In re Gault*;

**Right to confront and cross-examine witnesses** -- *In re Gault*;

**Proof beyond a reasonable doubt** -- *In re Winship*;

**Protection from double jeopardy** -- *Breed v. Jones*.

The following Constitutional protections are denied juveniles:

**Right to indictment by grand jury** -- *Hill and 18 U.S.C. § 5032*;

**Right to a jury trial** -- *McKeiver*.

## **II. The Federal Juvenile Delinquency Act**

The FJDA is found at 18 U.S.C. §§ 5031 *et seq.* A review of these statutes follows.

### ***§ 5031- Definitions***

Section 5031 provides that the federal delinquency statutes apply to anyone under the age of eighteen and to acts that would be considered criminal if committed by an adult. The statute also allows for a juvenile proceeding against anyone between the ages of eighteen and twenty-one for an act committed before the person turned eighteen.

### ***§ 5032 - Delinquency proceedings in district court; transfer for criminal prosecution***

Section 5032, the core of the FDJA, sets forth the certification procedure for establishing federal jurisdiction over a juvenile. The statute recognizes the general policy of federal abstention in juvenile proceedings.

Federal jurisdiction is appropriate in two instances. First, the district court has jurisdiction over a juvenile who is alleged to have committed a violation of the law in the court's special maritime and territorial jurisdiction for which the maximum authorized term of imprisonment is six months or less. Second, for a felony offense, the district court has jurisdiction only if the Attorney General, after investigation, certifies to the appropriate district court one of the following factors:

(1) that a juvenile court or other appropriate state court does not have jurisdiction or refuses to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency;

(2) that the state does not have available programs and services adequate for the needs of juveniles; or

(3) that the offense charged is a crime of violence that is a felony, or is an offense described in certain sections of title 21, **and** that there is a substantial federal interest in the case or the offense.

If jurisdiction is not established under either of these two criteria, the juvenile must be surrendered to appropriate state authorities. As already noted, if federal jurisdiction is established,

§ 5032 provides that the juvenile be proceeded against by information.

Additionally, § 5032 sets forth the procedures for “transferring” a juvenile to the district court for adjudication, and sentencing, as an adult. Discussion of the transfer provisions is found in Part II of this book.

### ***§ 5033 - Custody prior to appearance before magistrate***

When a juvenile is taken into custody prior to an appearance before a magistrate, the arresting officer must advise the juvenile of her legal rights “in language comprehensive to a juvenile.” Moreover, the arresting officer must notify the Attorney General and the juvenile’s parents, guardian, or custodian of the arrest. Additionally, the arresting officer must notify the parents, guardian, or custodian of the rights of the juvenile and the nature of the offense alleged.

The statute also provides that the juvenile be brought before the magistrate “forthwith,” and that she shall not be detained “for longer than a reasonable time” before her appearance before the magistrate.

### ***§ 5034 - Duties of a magistrate***

The magistrate must insure that the juvenile is represented by counsel “before proceeding with the critical stages of the proceedings.” Counsel may be appointed if the juvenile is financially unable to obtain representation. If the juvenile and his parents or guardian are financially able to obtain counsel, but have failed to retain an attorney, the magistrate may assign one.

The magistrate may appoint a guardian ad litem if the parent, guardian, or custodian is not present in court, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parent or guardian are adverse to the juvenile.

The magistrate may release the juvenile to his parents, guardian, or custodian, or other responsible party. Alternatively, after a hearing at which the juvenile is represented by counsel, the magistrate may order the detention of the juvenile.

### ***§ 5035 - Detention prior to disposition***

A juvenile alleged to be delinquent may be detained only in a juvenile facility or “other suitable place.” The juvenile must not be detained in any institution where the juvenile would have regular contact with adults convicted of a crime or awaiting trial on criminal charges. If possible, alleged juveniles should be kept separate from adjudicated delinquents. Every juvenile should receive food, clothing, shelter, recreation, education and medical care including necessary psychiatric, psychological, or other care and treatment.

### ***§ 5036 - Speedy Trial***

The juvenile must be brought to trial within thirty days from the date detention was begun, unless the Attorney General shows that the delay was caused by the juvenile or her counsel, or consented to by the juvenile and her counsel, or would be in the interests of justice. Except in extraordinary circumstances, an information dismissed under this section may not be re-instituted.

### ***§ 5037 - Dispositional Hearing***

The dispositional hearing (the juvenile equivalent of sentencing) must occur within twenty court days after the juvenile is adjudicated delinquent, unless the court orders further study pursuant to § 5037(d).

After the dispositional hearing, the court may:

- (a) suspend the finding of delinquency;
- (b) require the juvenile to make restitution;
- (c) place the juvenile on probation; or
- (d) commit the juvenile to official detention in the custody of the Attorney General.

### ***Sentencing of the Juvenile under § 5037***

The maximum terms applicable to a juvenile are as follows:

(a) For a juvenile under eighteen at the time of disposition, neither the probation nor the detention term may extend beyond the juvenile's twenty-first birthday.

(b) For a juvenile between eighteen and twenty-one at the time of disposition, the probation term may not exceed three years. The detention term may not exceed five years if the act of delinquency was a Class A, B, or C felony; it may not exceed three years in other cases.

*United States v. R.L.C.*, 503 U.S. 291 (1992) holds that a juvenile may not be placed on probation or committed for a term longer than the maximum probation or prison term that would have been authorized had the juvenile been sentenced as an adult under the Sentencing Guidelines.

### ***Court Ordered Observation and Study under § 5037(d)***

An alleged or adjudicated delinquent may be committed, after notice and a hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. This observation and study shall be conducted on an outpatient basis unless the court determines that inpatient observation and study are necessary to obtain the desired information. If the juvenile is only an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and her attorney. The agency shall make a complete

study of the alleged or adjudicated delinquent to ascertain her personal traits, capabilities, background, any previous delinquency or criminal experience, any mental or physical defects, and any other relevant factors. As will be shown in Part II, § 5037(d) is relevant to the transfer process.

The Attorney General must submit a report on the observation and study to the court and to the attorneys for the juvenile and the government within thirty days after commitment, unless the court grants additional time.

### ***§ 5038 - Use of Juvenile Records***

Section 5038 provides that the court retains discretion with respect to access to judicial records involving a juvenile. Unless the juvenile is prosecuted as an adult, neither her name nor her picture shall be made public.

Throughout and upon completion of the juvenile delinquency proceeding, all records are sealed from disclosure to unauthorized persons. During the process of the juvenile proceeding, the records remain sealed. Subsequently, juvenile records may be released, but only in the following circumstances:

- (1) inquiries from another court of law;
- (2) inquiries for preparation of a presentence report for another court;
- (3) inquiries from law enforcement related to the investigation of a crime or if the person is seeking employment within the agency;
- (4) inquiries, in writing, from a treatment agency or facility;
- (5) inquiries from an agency for a position affecting national security;
- (6) inquiries from victims or their immediate families related to the final disposition of the juvenile.

Unless otherwise authorized, the juvenile record is not to be released when the request relates to employment, license, bonding, or to any civil right or privilege.

The district court exercising jurisdiction over the juvenile must inform the juvenile, and his parent or guardian, in writing, of the rights relating to his juvenile record.

If a juvenile is found guilty of a felony that is a crime of violence under certain sections of Title 21, dealing with drug offenses, the juvenile will be fingerprinted and photographed. Additionally, under certain circumstances identified in the statute, the court will send to the FBI information concerning the juvenile adjudication. Section 5038 enumerates the offenses that trigger fingerprinting, photographing, and divulging of information to the FBI. The statute should be read



carefully in its entirety.

### ***§ 5039 - Commitment***

Section 5039 tracks § 5035 and specifies that a juvenile may not be placed in an institution where the juvenile would have regular contact with incarcerated adults. Committed juveniles must receive adequate food, clothing, recreation, education, training, and medical care including psychiatric, or psychological care and treatment.

### ***§ 5040 - Support***

Section 5040 allows the Attorney General to contract with public or private agencies for the observation and study, and the custody and care, of juveniles in the government's custody. The Attorney General may use for this purpose funds for "support of U.S. prisoners."

### ***§ 5041 - Parole***

Section 5041 has been repealed. Section 5037 states that 18 U.S.C. §§ 3562, 3564, 3565 are applicable to an order placing a juvenile on probation.

### ***§ 5042 - Revocation of probation***

Section 5042 provides that any juvenile probationer shall be given notice and a hearing with counsel before her probation can be revoked.

## **III. Special Areas of Concern for Defense Counsel in Juvenile Cases**

### ***Miranda***

The Supreme Court has not ruled upon the applicability of *Miranda* to the juvenile process. The Court in *Gault* held that the privilege against self-incrimination applies to juveniles in the same way that it applies to adults. The Court recognized that the Fifth Amendment privilege against self-incrimination can be claimed in any proceeding, "be it criminal, civil, administrative or judicial, investigatory or adjudicatory ...[and] protects any disclosure which the witness may reasonably apprehend could be used in a criminal prosecution." *In re Gault*, 387 U.S.1, 47 (1967).

Prior to *Miranda*, the Supreme Court used the voluntariness test (a totality of the circumstances analysis based on the standards of due process and fundamental fairness) to determine the admissibility of statements made by juveniles to law enforcement officers. The Court has recognized that juveniles require special care. Factors of concern are: age, education, background, intelligence, incommunicado custody without the presence of a parent, attorney, or other friendly adult, and whether the juvenile has the capacity to understand the nature of her Fifth Amendment rights and the consequences of waiving those rights. *Gallegos v. Colorado*, 370 U.S. 46,54 (1962); *Haley v. Ohio*, 332 U.S. 596,599 (1948). In *Fare v. Michael C.*, 442 U.S. 707, 725 (1979), the Court held that the totality-of-the-circumstances approach is adequate to determine whether there

has been a waiver even, where interrogation of juveniles is concerned.

The Fourth Circuit uses “totality of the circumstances” analysis to determine the voluntariness of a statement given by a juvenile, and the same analysis applies to a waiver of a juvenile’s constitutional rights. *Vance v. Bordenkircher*, 692 F.2d 978, 980 (4th Cir. 1982) *United States v. Miller*, 453 F.2d 634, 635 (4th Cir. 1972).

The FJDA does not require parental consent to a particular course of action by the juvenile. A juvenile, in other words, may waive the privilege against self-incrimination without parental consent. See *United States v. M.I.M.*, 932 F.2d 1016,1018 (1st Cir. 1991).

### ***Federal Rules of Evidence***

There is no caselaw which addresses the applicability of the Federal Rules of Evidence to an adjudication of juvenile delinquency. The Third Circuit has held that juvenile proceedings are not mentioned in Fed. R. Evid. 1101 (d), which identifies certain proceedings in which the rules do not apply, except with respect to privileges. *Government of the Virgin Islands in the Interest of A.M.*, 34 F.3d 153 (3d Cir. 1994). In places, however, the FDJA speaks of “trial.” See § 5036. The adjudication of juvenile delinquency does not result in a criminal conviction; thus, the due process standard of fundamental fairness provides a good framework for the admission of evidence.

As will be repeated below, The Federal Rules of Evidence, moreover, do not govern an 18 U.S.C. §5032 transfer hearing. *United States v. Doe*, 871 F.2d 1248,1255 (5th Cir. 1989). Hearsay, for example, is admissible to establish probable cause to transfer. See *A.M.*, 34 F.3d at 153.

### ***Guardian ad Litem and the Attorney-Client Privilege***

If the magistrate appoints a guardian ad litem for the juvenile, the communication between the GAL and the juvenile may not be protected. A court order protecting any communication between the GAL and the juvenile is recommended. Additionally, the guardian ad litem should not participate in any discussions between the attorney and the juvenile, or there is a risk the attorney-client will be waived.

# **TRANSFER OF THE JUVENILE TO ADULT STATUS**

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## **I. General Transfer Provisions**

The purpose of the FDJA is to be “helpful and rehabilitative” to the juvenile “rather than punitive.” *U.S. v. Hill*, 538 F.2d 1072, 1074 (4th Cir. 1976). The FDJA starts with an “inherent bias” toward rehabilitation of the juvenile and with a preference that the juvenile system be utilized wherever possible. *See In re Anthony G.*, 690 F.Supp. 760, 762 (S.D.Ind. 1988). Unless the government can show otherwise, juvenile adjudication is presumed to be appropriate. *See U.S. v. Juvenile Male # 1*, 47 F.3d 68, 71 (2d Cir 1995). Although rehabilitation is a priority of the Act, courts are not required to apply the juvenile justice system to a child’s diagnosed intellectual or behavioral problems when any such efforts would probably be fruitless. *See U.S. v. Three Juvenile Males*, 49 F.3d 1058, 1062 (5th Cir. 1995). Accordingly, 18 U.S.C. § 5032 makes provision for transferring certain juveniles to the district court for adjudication as an adult.

Whether to transfer a juvenile to the district court for adult adjudication is the most critical decision of the entire case. The previous section noted that a person who is under eighteen years old and who is adjudicated a juvenile delinquent may not be detained beyond age twenty-one. *See 18 U.S.C. § 5037(c)*. Conversely, a juvenile who is tried and convicted as an adult will face sentencing as an adult, where the penalties can be significantly more severe.

### ***How the Transfer Process Begins***

There are three prerequisites to a transfer proceeding. *See generally U.S. v. NJB*, 104 F.3d 630 (4th Cir. 1997). First, there must be on file a certification by the Attorney General or the Attorney General’s designee, pursuant to § 5032, asserting federal jurisdiction. Second, the government must make a motion for transfer. (A juvenile, however, may also request transfer if he does so “in writing upon advice of counsel.”) Third, the court must have before it either the defendant’s prior juvenile court record or a written certification by the clerk of the juvenile court that there is no prior record or that the record is unavailable. *See id.*; *see also, Impounded (Juvenile I.H., Jr.)*, 120 F.3d 357, 460 (3d Cir. 1997)(district court lacks jurisdiction to begin transfer proceeding unless record certification requirement is met).

### ***When Is a Juvenile Subject to Transfer?***

Under § 5032, transfer of the juvenile for trial as an adult is either forbidden, discretionary, or mandatory. The statute does not allow for the transfer of a juvenile alleged to have committed an offense prior to his thirteenth birthday. For juveniles aged thirteen and above, transfer is in most cases discretionary. The decision to seek transfer a juvenile to adult status rests initially with the government. Section 5032

provides that the government may seek to transfer “a juvenile fifteen years and older alleged to have committed an act after his fifteenth birthday which if committed by an adult would be a felony that is a crime of violence.” The definition of a crime of violence in 18 U.S.C. § 16 has been used for purposes of § 5032; indeed, portions of the latter statute track the language of the former. The government also may move to transfer when the juvenile is charged with committing certain controlled substances offenses (*see* 21 U.S.C. §§ 841, 952(a), 955, 959), or certain firearms offenses (*see* 18 U.S.C. §§ 922(x), 924 (b), (g), or (h)).

A thirteen-year-old is subject to discretionary transfer when he is accused of committing, after his thirteenth birthday, a crime of violence that is an offense under 18 U.S.C. §§ 113(a), (b), or (c) (assault), 1111 (murder), or 1113 (attempt to commit murder or manslaughter). Moreover, if the thirteen-year-old juvenile possessed a firearm during the commission of 18 U.S.C. §§ 2111 (robbery), 2113 (bank robbery), 2241(a) (aggravated sexual abuse), or 2241(c) (aggravated sexual abuse with children), he is likewise subject to transfer.

Transfer to the adult system is **mandatory** when a person allegedly commits, after his sixteenth birthday, an act which:

- (1) would be a felony offense if committed by an adult **and**
- (2) that has as an element the use, attempted use, threatened use of physical force, or that, by its very nature, involves a substantial risk that physical force may be used; **or**
- (3) would be an offense under 18 U.S.C. §§ 32 (destruction of aircraft), 81 (arson), 844(d), (e), (f), (h), or (i) (transporting or receiving explosives, communicating a threat to kill, destruction of, or using explosives to commit a felony), or is an enumerated controlled substances offense (*see* 21 U.S.C. §§ 952(a), 953, 959, 960(b)(1), (2), or (3)).

Finally, to be subject to mandatory transfer, the sixteen-year-old must have “previously been found guilty of an act which if committed by an adult” would have been one of the offenses set forth in § 5032 (or, if the predicate offense is a state conviction, would have been such a felony had there been federal jurisdiction). What constitutes a prior similar offense is of course open for argument. Although, for example, an adjudication of juvenile delinquency is not a conviction of a crime but is rather a determination of a juvenile’s status, a delinquency adjudication can still serve as a finding of guilt for purposes § 5032. *See NJB*, 104 F.3d at 636-37; *U.S. v. David H.*, 29 F.3d 489, 492 (9th Cir. 1994).

### ***How Is a Transfer Decision Made?***

Though the transfer process is, in most cases, initiated by the government, the **decision** whether to transfer a juvenile to adult status rests within the “broad discretion” of the district court. *See United States v. Romulus*, 949 F.2d 713, 715 (4th Cir. 1991), *cert. denied*, 503 U.S. 992 (1992). When considering a motion to transfer, the court must balance the purposes of the federal juvenile delinquency provisions, *i.e.*, rehabilitation and treatment, against the need to protect the public from violent and dangerous individuals. *See Juvenile Male #1*, 47 F.3d at 71. A motion to transfer is properly granted where the court determines

that the risk of harm to society posed by affording a defendant more lenient treatment within the juvenile system outweighs his chances for rehabilitation. *See U.S. v. One Juvenile Male*, 40 F.3d 841, 844 (6th Cir. 1994). The rehabilitation of the young offender, however, outweighs society's interest in punishing criminal activity. *See U.S. v. B.N.S.*, 557 F.Supp. 351, 353 (D.Wyo.1983).

To determine whether to grant or deny a transfer motion, the court must hold a hearing to decide if trying the juvenile as an adult "would be in the interest of justice." *See* § 5032. It is the government's burden to prove, by a **preponderance of the evidence**, that the transfer in fact would serve that interest. *See Juvenile Male # 1*, 86 F.3d at 1323. Thus, when the juvenile's potential for rehabilitation is good, and when facilities exist to allow that rehabilitative potential to be realized, then transferring the juvenile to adult status does not further the interests of justice. *See B.N.S.*, 557 F.Supp. at 352. In making its findings, the court may consider the credibility of witnesses. *See United States v. Doe*, 871 F.2d 1248, 1255 (5th Cir.), *cert. denied*, 493 U.S. 917 (1989). As noted in the previous section, the strict evidentiary rules in place at criminal trials do not apply at a transfer hearing. *Id.* at 1254. Accordingly, findings in support of a transfer decision may be based on hearsay and evidence as might otherwise be inadmissible at a criminal trial.

Juvenile delinquency proceedings, including matters relating to transfer, are subject to limitations regarding public disclosure of the identity of the juvenile defendant as well as disclosure of information and records related to the juvenile proceedings. *See* 18 U.S.C. § 5038; *see also, United States v. A.D.*, 28 F.3d 1353 (3d Cir. 1994). Documents in the case are filed under seal using the juvenile's initials, and the evidentiary hearing on the transfer motion is held in a closed courtroom. *See United States v. Juvenile (I.H. Jr.)*, 1 F.Supp 2d. 509, 510-11 (D. Virgin Islands 1998).

## II. The Six Factors for Determining Transfer

Under § 5032, before granting or denying a transfer request, the court must consider evidence and make findings of fact regarding six factors. With respect to each factor, the court must find that the factor either favors transfer, weighs against it, or neither militates for or against it. *See e.g., Anthony Y.*, 990 F. Supp. 1310, 1315 (D. New Mexico 1998). The six factors the court must consider are these:

- (1) *the age and social background of the juvenile;*
- (2) *the nature of the alleged offense;*
- (3) *the extent and nature of the juvenile's prior delinquency record;*
- (4) *the juvenile's present intellectual development and psychological maturity;*
- (5) *the nature of past treatment efforts and the juvenile's response to such efforts; and*
- (6) *the availability of programs designed to treat the juvenile's behavioral problems.*

18 U.S.C. § 5032; *see also, U.S. v. Juvenile MLA*, 157 F.3d 616, 617 (8th Cir. 1998)(transfer ordered after court found that offense committed sixteen days before juvenile's sixteenth birthday, that juvenile received little parental guidance and had a history of familial dysfunction (*factor one*); that offense of two

acts of sexual intercourse and assault causing extensive injury to victim was “particularly heinous” (*factor two*); that juvenile first arrested at age ten and had been arrested several times since then (*factor three*); that there was evidence of borderline intellectual functioning and psychological immaturity (*factor four*); that juvenile had had difficulties in prior treatment programs (*factor five*); and had exhausted many of the available programs designed to treat juvenile behavior problems (*factor six*)).

The court must balance the six factors to predict “the possibility of rehabilitation if in fact the juvenile is found guilty of the crime alleged.” *U.S. v. Gerald N.*, 900 F.2d 189, 191 (9th Cir. 1990). It is error for the district court to fail to make findings on all of the factors, and if any of the required findings are not made the transfer decision will be remanded for that purpose. *See Romulus*, 949 F.2d at 716.

Importantly, § 5032 does not designate the relative importance of any one factor over another; therefore, the court may decide the weight to be given to each of them. *See U.S. v. Juvenile Male # 1*, 86 F.3d 1314, 1323-24 (4th Cir. 1996). As will be discussed below, however, the nature of the alleged offense can often prove the predominating factor on which the court will base its transfer decision.

### *Age and Social Background of the Juvenile*

Generally, under § 5032 only juveniles between the ages of 15 and 18 are eligible for transfer to adult status. *Anthony Y.*, 990 F. Supp. at 1313. The closer a juvenile is to age eighteen at the time of the alleged offense will count as a factor favoring transfer. The farther away he is from eighteen will favor keeping him in the juvenile system. *See Doe*, 710 F.Supp. at 961. Age by itself, however, should not be a sufficient ground for the court to use in **granting** a transfer motion. In *Doe*, the government argued for the transfer because the juvenile was almost eighteen at the time of the offense. The court responded as follows:

Although the defendant was almost eighteen at the time of the alleged crimes, a point the government stresses, he was not eighteen yet, and Congress has decided that those persons under that age should be treated separately. The cutoff date is of course somewhat arbitrary, but a line must be drawn somewhere and Congress has drawn it at age eighteen. While the Court believes that the closer a juvenile is to eighteen may indicate that transfer is more appropriate than not, that fact alone is not dispositive, and it should be viewed in the context of the other factors.

The judge in *Doe* denied the motion to transfer, despite the defendant’s age and despite the nature of his offense (selling cocaine near a school), because the other factors—his lack of prior contact with the criminal justice system, his immaturity, the availability of juvenile programs to help him, and no indication that past treatment efforts had not been fruitful—favored maintaining his juvenile status. *Id.*

Similarly, in *Anthony G.*, the court noted that “[p]rotective and rehabilitative philosophies support the concept of treating juvenile offenders between the ages of 16 and 18 differently than those over the age of 18 who commit federal crimes.” 690 F.Supp. at 762. The court observed, however, that “[t]he benefit of such treatment tends to diminish as the age of the offender increases [because] the closer an offender

is to the age of 18, the less period of time will be available for rehabilitative techniques to be put into effect.” *Id.*

The “social background” consideration contemplates the “determinist view of young people,” which is that they are “essentially products of their environments and so not yet responsible for their own acts.” *U.S. v. J.D.*, 525 F.Supp. 101, 103 (S.D.N.Y. 1981); *see also, U.S. v. E.K.*, 471 F.Supp. 924, 931 (D. Ore. 1979) (“[r]eprehensible acts by juveniles are not the consequence of mature and malevolent choice but of environmental pressures (or lack of them) or of other forces beyond their control”); *U.S. v. TLW*, 925 F.Supp. 1398, 1402 (C.D.Ill. 1996) (plausible argument that environment contributed to juvenile’s behavior, and that change of environment might make rehabilitation possible).

The judge in *J.D.* interpreted the “social background” phrase “in the broadest sense,” to include family background, community ties, connections with any institutions, and “any other aspects of [the juvenile’s] role and relationship to society.” 525 F.Supp. at 105 n.2. Similarly, in *U.S. v. M.L.*, 811 F.Supp. 491, 494 (C.D.Cal. 1992), the court found the juvenile’s “knowledge of gang activities and choice not to participate in them [to] indicate[] that rehabilitation in the juvenile setting is possible.” This fact, together with the juvenile’s “intact family” and lack of an “extraordinary” social background, argued against transfer of a sixteen year-old juvenile charged with a very violent murder. *Id.* Conversely, in *Anthony Y.*, the juvenile’s dysfunctional family weighed in favor of transfer. The court said that “[t]he social background of an unstable and unsupportive family environment, as exists here, favors transfer to adult status.” 990 F.Supp. at 1310. The court added that “[i]t is difficult to reach the goal of the juvenile justice system ‘to encourage treatment and rehabilitation’ [citation omitted] without familial support. *Id.* at 1314.

### ***Nature of the Alleged Offense***

Expect the government to place very heavy emphasis on this factor at the transfer hearing. For purposes of a transfer proceeding, the district court “is entitled to assume that the juvenile committed the offense charged.” *In re Sealed Case*, 893 F.2d 363, 369 (D.C. Cir. 1990). Some courts give the offense factor the greatest weight in determining whether to bind over a juvenile for adult prosecution. *See One Juvenile Male*, 40 F.3d at 846 (practice of giving “great weight” to nature of offense sanctioned by several courts). The Fourth Circuit has said, in fact, that “in the weighing of the various factors, the nature of the crime clearly predominates.” *Juvenile Male # 1*, 86 F.3d at 1323. In *U.S. v. Nelson*, 68 F.3d 583, 590 (2nd Cir. 1995), the court stated that “when a crime is particularly serious, the district court is justified in weighing this factor more heavily than other statutory factors.” A heinous offense, in short, may be accorded such “special weight,” *id.*, by the judge that, even if the five remaining factors argue for maintaining juvenile status, a decision to transfer will likely be upheld.

This point is illustrated in *One Juvenile Male*. In that case, the juvenile, charged in a ten-count information with offenses that grew out of murder, carjacking, robbery, and assault, appeared to have a stable home environment, and he did not have an extensive prior delinquency record. Additionally, there was “optimistic testimony” regarding his chances for rehabilitation. 40 F.3d at 845. However, the “factor that influenced the court most was the heinous nature of the alleged crimes.” *Id.* The judge, who “did not

see much hope of rehabilitation” because the defendant would be in custody for only two years, granted the transfer motion. *Id.* at 846.

Similarly, in *U.S. v. Alexander*, 695 F.2d 398, 401 (9th Cir. 1982), *cert. denied*, 462 U.S. 1108 (1983), a sixteen-year-old juvenile murdered four people, including a two year-old girl, by shooting them multiple times. The judge found all but two of the six factors to be either neutral or equivocal regarding the appropriateness of transfer. In the defendant’s favor, the judge found that programs were available to treat him. On the basis of the nature of the alleged crime, however, the judge said the availability of treatment was clearly outweighed by the offense, and it granted the motion to transfer. The Ninth Circuit, observing that “the grievous nature of the crime was such that the judge wanted more than a glimmer of hope of rehabilitation,” affirmed. *Id.*

What acts constitute the *alleged offense* is open to some controversy. In *In re Sealed Case (Juvenile Transfer)*, 893 F.2d 363, 370 (D.C. Cir. 1990), the court of appeals held that the factor does not allow a judge to weigh evidence of offenses distinct from the offense charged. In that case, the juvenile was charged with multiple counts of cocaine distribution and a count of conspiracy to possess and distribute cocaine. The government later dropped the conspiracy charge; however, the court considered evidence of the juvenile’s participation in the conspiracy when considering the nature of the alleged offense. The D.C. Circuit held that the court had erred by doing so, and that the “nature of the alleged offense” does not encompass evidence of unalleged offenses. *Id.* at 368. At the same time, the court of appeals rejected the juvenile’s argument that the nature of the offense “does not encompass evidence going to any specifics of the offense set out in the Information.” *Id.* at 370. Although the government had not alleged the quantity of cocaine the juvenile had been charged with distributing, the D.C. Circuit said it would have been proper for the government to have done so in the information, since the allegation would have been probative of the offense’s gravity as well as the juvenile’s prospects for rehabilitation. *Id.* at 370. The Eighth Circuit agreed with *Sealed Case* with respect to the D.C. Circuit’s holding that § 5032 does not authorize a judge to consider evidence of other crimes in assessing the nature of the alleged offense. *See U.S. v. LWO*, 160 F.3d 1179, 1183 (8th Cir. 1998). The Eighth Circuit went on to hold, however, that “section 5032 leaves to the sound discretion of the district court the decision to admit evidence of other incidents and behavior, that may be alleged to be criminal or delinquent” as relevant to assessing three of the remaining six factors: the age and social background of the juvenile, his present intellectual development and psychological maturity, and the nature of past treatment efforts and the juvenile’s response to such efforts. *Id.* Finally, in *U.S. v. Wilson*, 149 F.3d 610 (7th Cir. 1998), the Seventh Circuit distinguished *Sealed Case* and held that a court may consider relevant conduct, not alleged in the Information, in assessing the nature of the offense. In *Wilson*, a juvenile was charged with delivering a controlled substance. In considering the charged offense, the district court heard evidence Wilson had possessed a gun during the transaction. *Id.* at 611. The Seventh Circuit rejected Wilson’s argument that the court was limited to considering the offense as alleged in the indictment, where no mention of the gun had been made. *Id.* at 612. Since the firearm was related to the offense, the juvenile’s possession of the gun was neither a “discrete” nor “independent” offense but was part of it. *Id.* at 612-613.

Among other considerations the nature of the alleged offense is probative of whether there is a real-world possibility of the juvenile’s rehabilitation. *One Juvenile Male*, 40 F.3d at 846. An offense, although



serious, will not compel transfer to adult status where “all things considered, the juvenile has a realistic chance of rehabilitative potential in available treatment facilities during the period of his minority.” *E.K.* , 471 F. Supp. at 932. Thus, “where a realistic chance for rehabilitation exists, the balance ought not to tip in recognition of the general societal interests subsumed in the broader sense of the word ‘justice.’” *Id.* For example, in *United States v. Doe*, 94 F.3d 532 (9th Cir. 1996), the defendant was charged with first-degree murder, felony murder, theft of tribal property, burglary and conspiracy to commit burglary. Despite the grievous nature of these offenses, however, the district court denied the government’s motion to transfer, largely on the basis of a psychologist’s testimony that four years of treatment would “reduce the recidivism substantially and give the defendant a reasonable prospect of rehabilitation.” *Id.* at 534.<sup>1</sup>

If your client is in the federal system because the alleged offense occurred on federal property, you may want to consider making a secondary argument with respect to the nature-of-the-offense factor. Federal jurisdiction is assumed over a juvenile who commits a crime off federal property only when there is a “substantial Federal interest in the case.” 18 U.S.C. § 5032; *See Juvenile Male # 1*, 86 F.3d at 1317. The legislative history to the 1984 amendments to section 5032 shows that such an interest should only be found in cases that:

give rise to special Federal concerns. Examples of such cases could include an assault on, or assassination of, a Federal official, an aircraft hijacking, a kidnaping where state boundaries are crossed, a major espionage or sabotage offense, participation in large-scale drug trafficking , or significant or willful destruction of property belonging to the United States.

*See Juvenile Male # 1*, 86 F.3d at 1319 (quoting 1974 U.S. Code Cong. & Admin. News, p. 5320). Moreover, criteria the United States Attorney is to consider in deciding a “substantial federal interest” include federal law enforcement priorities, the deterrent effect of prosecution, and the person’s history with respect to criminal activity. *Id.* at 1325 (Wilkinson, C.J., concurring) (quoting Department of Justice U.S. Attorney’s Manual § 9-27.230(A)). Although the crime charged may be very serious, such as an intra-familial sex offense, it can be argued that it is not comparable to the sorts of offenses enumerated in the Senate report, all of which demonstrate threats to society at large.

The “substantial federal interest” argument should not be pursued too heavily, however, as the interest inquiry is only relevant when the federal government looks to exercise its jurisdiction in place of a state. *Juvenile Male # 1*, 86 F.3d at 1317 n.4. Moreover, “substantial interest” is not relevant to the six-factor inquiry for purposes of transfer to adult status. *See id.* However, to the extent the analogy can downplay strong evidence of the gravity of the offense, the “substantial interest” argument may be helpful.

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<sup>1</sup>*See also, U.S. v. A.J.M.*, 685 F.Supp. 1192 (W.D.Okl. 1987) (government motion to transfer juveniles charged with murder denied due to absence of evidence from government on availability of programs designed to treat the juveniles behavioral problems); *U.S. v. Dennison*, 652 F.Supp. 211 (D.N.M. 1986) (motion to transfer juveniles charged with murder denied due to rehabilitative prospects).

Finally, although the sentence the juvenile will receive if convicted as an adult is neither one of the six enumerated factors, it should be brought to the court's attention when the nature of the offense is discussed at the hearing. It is legitimate, in other words, to ask the court to consider whether the interests of justice will be served by a lengthy adult sentence for a person of young years.

### ***The Extent and Nature of the Juvenile's Prior Delinquency Record***

A lack of a criminal record "suggests the hope that [a] defendant may benefit from juvenile treatment[.]" *Doe*, 710 F.Supp. at 961; *see also*, *M.L.*, 811 F.Supp. at 495 (no prior record weighs in favor of juvenile treatment since it increases likelihood of rehabilitation by age twenty-one). In one case, the government asserted that the juvenile's disciplinary problems at school, which included starting a fire,<sup>2</sup> was evidence of the defendant's "downward spiral into serious violent crimes." *Doe*, 94 F.3d at 538. The court disagreed and concluded that "while [the juvenile's] activities may not be condoned, they are no more serious than the reprimands received by other students, with the exception of the arson." *Id.*; *see also* *TLW*, 925 F.Supp. at 1404 (pattern of violence beginning at young age cut both ways as juvenile had never been convicted of any serious offense). Rather than considering the juvenile as a violent criminal in the making, the *Doe* court viewed the defendant's disciplinary problems as "anti-social behavior" on school premises.

At the other extreme, in *Anthony Y.*, the court found the juvenile frequently got into fights, abused drugs and missed school. Additionally, he had been caught carrying a sharpened screwdriver, and he physically assaulted his counselor. He broke windows and flattened tires in his neighborhood, abused animals, and, only two after days after his crime, he hit a teenager over the head with a bottle, hospitalizing him. Further, while in detention on the instant charges, the juvenile was involved in shoving incidents, possessed a sharpened toothbrush, and was found in unauthorized areas. The court said that "Anthony's extensive record at such a young age, which includes considerable violence, weighs in favor of transfer to adult status." 990 F.Supp. at 1315.

### ***The Juvenile's Intellectual Development and Psychological Maturity***

This fourth factor appears to open up for consideration the juvenile's general psychological makeup and any expert opinion about the possibility of his successful treatment and rehabilitation. *See U.S. v. Dennison*, 652 F.Supp. 211, 216-17 (D.N.M. 1986)(considering, among other things., the juvenile's depression, anxiety, alcohol abuse, and the psychologist's speculation as to juvenile's recent history of violence). A juvenile's psychological immaturity and lack of intellectual development argue against his transfer to adult status. *See E.K.*, 471 F.Supp. at 936 n.8; *Doe*, 710 F.Supp. at 961. Immaturity means that "one is not yet set in his ways, not yet fully formed," and the FJDA assumes "that young people, still undeveloped, can be directed in socially useful paths." *J.D.*, 525 F.Supp. at 103. Furthermore, the

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<sup>2</sup>His other transgressions were "cheating on P.E. warm-up laps, bringing food into the library, and swearing in class[.]" 94 F.3d at 538.

immature “may not justly be held responsible for their delicts and are thus deserving of non-criminal treatment.” *Id.* at 103-104 (*citing Hill*, 538 F.2d at 1074).

The relevance of an inquiry into a juvenile’s “intellectual development” is to determine whether he is capable of reasoning at the maturity level one would expect of a person his age. *See Anthony G.*, 690 F.Supp. at 764. The factor is also probative of whether the youth can be rehabilitated. *See M.L.*, 811 F.Supp. at 496 (juvenile’s intellect and supportive family background allowed him to recognize his errors in judgment and the immensity of the wrong he committed; thus, the juvenile seemed ripe for rehabilitation), and of whether educational programs in a juvenile facility would be of any benefit. *See Anthony G.*, 690 F.Supp. at 765. Also, when intellectual ability is combined with a desire to “accomplish positive things” in the future then “the rehabilitative model employed by the juvenile justice system will better serve both defendant and society.” *M.L.*, 811 F.Supp. at 496.

On the other hand, while normal intellectual and psychological status may make the juvenile a good candidate for rehabilitation, it can just as readily be argued that a juvenile who has normal faculties should know better than to commit a crime. *See I.H.*, 1 F.Supp2d. at 519. Equally, an adequately developed intellect may indicate that the juvenile is set enough in his ways so as to be unamenable to rehabilitation. *See J.D.*, 525 F.Supp. at 104. For example, the failure to take responsibility for or the failure to attempt to improve school grades may be significant in a transfer determination. In *Juvenile Male # 1*, the court transferred a juvenile in part because the juvenile had bad grades, but had shown the ability to improve them, was of average intelligence, and was able to understand the nature of his acts. 86 F.3d at 1322.

Under 18 U.S.C. § 5037(d), if the court desires more detailed information concerning an alleged or adjudicated delinquent, it may order him evaluated. Additionally, the government may move for such an examination for the purpose of furnishing the court with evidence on these factors. Although § 5032 provides that “[s]tatements made prior to or during a transfer hearing . . . shall not be admissible at subsequent criminal prosecutions,” potential Fifth Amendment issues are implicated by a compelled examination, the results of which will be shared with the government. Moreover, despite the protections of § 5032, it is not at all clear that statements made by the juvenile at the evaluation could **not** be used by the court at sentencing, for impeachment, or by a state in an ancillary prosecution.

The government is not necessarily required to produce evidence on each transfer factor, so long as the court makes **findings** on each factor. In *United States v. Juvenile Male*, 1993 U.S. App. LEXIS 19935 (4th Cir. August 3, 1993)(unpublished), the district court “found no evidence of past treatment efforts and stated that no findings could be made regarding Juvenile Male’s response to such treatments.” *Id.* at \*4. On appeal, the juvenile assigned error to the court’s failure to make findings regarding past treatment. The Fourth Circuit called the argument “without merit,” in that the district court “specifically found that there had been no past treatment efforts . . . [and] that it could not make findings with respect to Juvenile Male’s response to such efforts.” *Id.* at \*5. *Juvenile Male* cited the Eighth Circuit’s decision in *United States v. Parker*, 956 F.2d 169, 171 (8th Cir. 1992), in which the court of appeals held that the district court’s findings that there “was too little evidence about [the juvenile’s] social background to make a conclusion about it” and that “there was no evidence of psychological immaturity” were adequate to support the juvenile’s transfer.

### ***The Nature of and Response to Past Treatment***

The “juvenile system treatment is not to be employed in the instance of a person over 16 years of age who has committed a serious offense when it is manifest that such treatment has no chance of success.” *E.K.*, 471 F.Supp. at 932. However, “it is incumbent upon [a] court to deny a motion to transfer where, all things considered, the juvenile has a realistic chance of rehabilitative potential in available treatment facilities during the period of his minority.” *Id.* This is another way of saying that there must be a realistic chance that before the juvenile turns twenty-one, he can be rehabilitated. *See U.S. v. Dion L.*, 19 F.Supp.2d 1224, 1227 (D.N.M. 1998)(five years insufficient time to ensure satisfactory results for juvenile accused of brutal murder). Equally, failed efforts in the past to treat a juvenile are relevant to determining his prospects for rehabilitation. *See E.K.*, 471 F.Supp. at 932.

Probative of “response to treatment” may be a juvenile’s conduct following arrest for the offense for which transfer is sought. In *Juvenile Male # 1*, the Fourth Circuit approved the district court’s finding that, despite some improvement during his detention at a diagnostic center, the juvenile continued to “encourage his peers to violence.” 86 F.3d at 1323. “It is clear,” said the Court of Appeals, that “Juvenile # 1’s response to treatment, particularly in light of what was at stake while he was detained prior to the hearing, did not support repeated attempts at rehabilitation[.]” *Id.*

One court has viewed school as “analogous” to treatment efforts, where little else in the record showed any other past attempts at treatment. *Anthony G.*, 690 F.Supp. at 764. There, the court said that “despite the availability of educational opportunities,” the juvenile, “had totally rejected anything that the school system had to offer him,” and found that the factor favored transfer. *Id.*

### ***The Availability of Programs to Treat the Juvenile***

On a motion to transfer, it must be remembered that the burden of persuasion is on the government. As to the sixth factor, the government must show why a juvenile would not benefit from existing programs or why such programs would not be suitable for him. *See Doe*, 710 at 961; *A.J.M.*, 685 F.Supp. at 1192 (motion to transfer denied where government presented no evidence of availability of treatment programs for juvenile). *See also, M.L.*, 811 at 496 (federal government contracts with state and local programs in order to treat and detain juveniles; therefore a wide variety of rehabilitative programs will remain available if defendant treated as a juvenile). There are no federal facilities in the Bureau of Prisons Mid-Atlantic Region for individuals adjudicated as juvenile delinquents in the Eastern District of North Carolina. Indeed, at present the Bureau of Prisons has no permanent federal facility for the incarceration of juvenile offenders. *See Dion L.*, 19 F.Supp.2d at 1227. Thus, after screening, the juvenile likely will be sent to a state contract facility. Geographic considerations should play only “a minimal role” in placing a juvenile in a suitable facility for treatment. *E.K.*, 471 F.Supp. at 936 (juvenile in Oregon could be treated in Colorado).

The nature of the juvenile’s offense, as well as other behavioral problems he may have, is vital in determining whether there are “available programs” for treatment. Some juvenile facilities, for example, will not accept sex offenders or violent offenders. It is thus incumbent on the juvenile’s attorney to be

prepared to offer evidence of a suitable site that would accept and be able to treat the juvenile client. Moreover, the attorney should be ready to show that space is presently available in the facility for the juvenile. *See E.K.*, 471 F.Supp. at 932-33 (despite prior lack of success in other juvenile treatment facilities and “escalating seriousness” of offenses, existence of one specialized juvenile facility likely to allow a chance for rehabilitation of seventeen year old precluded conclusion of no chance for rehabilitation by twenty-one; motion to transfer denied).

The chosen secure facility for the Mid-Atlantic Region is the Shelby Training Center located in Memphis, Tennessee. This Center offers educational and vocational programs to youthful offenders, as well as specific treatment for particularized behavioral problems the juvenile may have such as anger and conflict management. Its telephone number is

### **III. Conclusion**

In all likelihood, the principal dynamic at the transfer hearing will be the government’s focus on the nature of the offense against the juvenile’s insistence that he can be treated and rehabilitated by age twenty-one. Realistically, if the charged offense is heinous, the government, from the outset, will have made substantial strides toward carrying its burden. It thus becomes the defense’s task to muster as much as can be derived from the five remaining factors to overcome the weight of that single factor.

## **Chapter 2 - Federal Prosecution Against Juveniles**

**STEP 1:**      **Evaluate Case to Determine Whether There is a Federal Interest to Prosecute Juvenile.**

**STEP 2:**      **Determine How to Proceed Against Juvenile**

**I.      Proceed Against Juvenile as Juvenile Delinquent**

**A.      File Juvenile Information**

**B.      File Certification**

1.      Attorney General, through U.S. Attorney must certify at least one of the following:
  - a.      The state has no jurisdiction or refuses to assume jurisdiction.
  - b.      The state has no adequate programs to meet the needs of juvenile;  
**or**
  - c.      The following three conditions are met:
    - i.      The offense charged is a felony (or one of the offenses specifically enumerated in 18 U.S.C. § 5032),
    - ii.     The offense charged is a crime of violence **and**
    - iii.    There is a substantial Federal interest in the case or the offense justifying Federal involvement.
2.      Pursuant to 18 U.S.C. § 5032, and only for offenses that are in violation of the law in the special maritime jurisdiction of the United States for which the term of imprisonment is six months or less, a certification from the Attorney General is not required to proceed with the juvenile delinquency hearing. However, all other requirements of 18 U.S.C. § 5031, et. sec. Must be complied with. (See Section II. D. 2 below).

**C.      Subpoena Juvenile Records**

1.      Must be provided to the Court prior to sentencing.
2.      If no juvenile record, then the clerk of the appropriate juvenile court must certify in writing that the juvenile has no prior record or that the record is unavailable and why. 18 U.S.C. § 5032.

(Copy of Juvenile Record can be provided to Pre-Trial Services pursuant to 18 U.S.C. § 5038(c))

D. Juvenile Delinquent Adjudication

1. Proceedings must be closed to the public.
2. Formally, juvenile dispositions were only heard by District Court judges. 18 U.S.C. § 3401(g) now permits a Federal Magistrate Judge to hear juvenile dispositions in petty offense cases and misdemeanor cases, other than petty offenses, when a consent to trial before a magistrate judge has been filed.
3. Proceedings must be before a district court judge since magistrate can not impose jail time. 18 U.S.C. § 3401(g).
4. Like a bench trial.
5. Proof must be beyond a reasonable doubt. In re Winship, 397 U.S. 358 (1970).
6. No right to jury trial. McKeiver v. Pennsylvania, 403 U.S. 528 (1971).
7. Federal Rules of Evidence apply.

E. Dispositional Hearing

1. After a juvenile is adjudged delinquent, a disposition hearing **must be** held within 20 court days of the delinquency hearing.
2. Judge can impose:
  - a. Restitution
  - b. Probation
  - c. Official Detention
    - i. Juvenile committed to custody of Attorney General.
    - ii. Federal Bureau of Prisons designates place of confinement.
    - iii. Juveniles less than 21 are not placed in an institution in which they have regular contact with adults convicted of similar crimes or awaiting trial on criminal charges. 18 U.S.C. § 5039.

II. **Proceed Against Juvenile as Adult**

A. File Juvenile Information

B. File Certification

1. Attorney General, through U.S. Attorney must certify at least one of the following:
  - a. The state has no jurisdiction or refuses to assume jurisdiction.
  - b. The state has no adequate programs to meet the needs of juvenile;  
**or**
  - c. The following three conditions are met:
    - i. The offense charged is a felony (or one of the offenses specifically enumerated in 18 U.S.C. § 5032),

- ii. The offense charged is a crime of violence **and**
- iii. There is a substantial Federal interest in the case or the offense justifying Federal involvement.

C. Subpoena Juvenile Records

D. File Motion to Transfer & Memorandum in Support of Transfer. Memorandum should address:

1. Age & social background of juvenile
  - a. Subpoena DSS records if any.
2. Nature of alleged offense
  - a. Extent to which the juvenile played a leadership role in an organization,
  - b. Or otherwise influenced others to take part in criminal activities.
3. Extent & nature of juvenile's prior delinquency record.
  - a. Juvenile records
  - b. School records of disciplinary action.
4. Juvenile's present intellectual development and psychological maturity.
  - a. School records re: grades, testing, etc.
  - b. Motion for psychological evaluation
    - i. Once Order is signed by the judge, forward a copy of the Order to U.S. Marshals Service and Bureau of Prisons Community Correction Manager's Office to effect transportation to appropriate facility.
5. Nature of past treatment efforts & juvenile's response to such efforts.
6. The availability of programs designed to treat the juvenile's behavioral problems.

(Court must, in making this determination, make findings on the record with respect to each of the above six factors)

E. Two Types of Transfers

1. Mandatory: The Court **shall** grant a motion to transfer if the following four conditions are met.
  - a. Juvenile is over 16
  - b. The offense is a felony
  - c. The offense is a crime of violence (or one of many enumerated drug and firearm offenses); and
  - d. The juvenile has previously been found guilty of one of the aforementioned crimes.



2. Discretionary: The Court may grant a motion to transfer if the following four conditions are met.
  - a. The juvenile is over 15 (13 for certain enumerated offenses);
  - b. The offense is a felony
  - c. The offense is a crime of violence; and
  - d. After a hearing, the court finds that the transfer is in the interest of justice

**Step 3: Motion To Transfer Granted**

- I. Indict Juvenile as adult.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA	)	
	)	
V.	)	<u>CERTIFICATION</u>
	)	18 U.S.C. § 5032
	)	(UNDER SEAL)
JUVENILE MALE (            )	)	
_____	)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, after investigation of the matters described herein, and with the delegation of the Attorney General of the United States (Attorney General Order No. 579-74, 28 C.F.R. Part 0.57), and pursuant to Title 18, United States Code, Section 5032, certifies to this Court as follows:

1. This certification is made pursuant to the requirements of Title 18, United States Code, Section 5032, of the Juvenile Justice and Delinquency Prevention Act, 18 U.S.C. §§ 5031-42, hereinafter referred to as the "Act."

2. Juvenile, defendant herein, has been charged by the United States with armed bank robbery in violation of Title 18, United States Code, Sections 2113(a) and (d); use of a firearm during a commission of a crime of violence in violation of Title 18, United States Code, Section 924(c); aiding and abetting the commission of these offenses in violation of Title 18, United

States Code, Section 2; Conspiracy to commit armed bank robbery in violation of Title 18, United States Code, Section 371; and possession of a firearm by a juvenile in violation of Title 18, United States Code, Section 922(x)(2).

3. A violation of Title 18, United States Code, Sections 2113(a) and (d), that is, armed bank robbery, is a felony crime of violence.

4. The defendant is a "juvenile" as that term is defined in the Act, and that he has not yet attained the age of eighteen, and is accused of committing acts of juvenile delinquency under Title 18, United States Code, Section 5032, as described in paragraph 2 herein.

5. There is a substantial Federal interest in the case and the offenses to warrant the exercise of federal jurisdiction.

WHEREFORE, the United States Attorney now certifies to this Court that jurisdiction over the defendant as a juvenile committing acts of juvenile delinquency is proper in this Court in accordance with Title 18, United States Code, Section 5032.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

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JANICE MCKENZIE COLE  
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA	)	UNITED STATES' NOTICE OF THE
	)	FILING OF CERTIFIED COPIES
v.	)	OF JUVENILE RECORDS OF
	)	<u>JUVENILE ( )</u>
JUVENILE ( )		18 U.S.C. 5032
		(UNDER SEAL)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Title 18, United States Code, Section 5032, hereby provides notice of the filing of a copy of the juvenile records from the State of Georgia, Clayton County Juvenile Court, for the Defendant, Juvenile, and a certification from the Deputy Clerk of Juvenile Records in Cumberland County, that no records exist for Juvenile. A copy of the records has been provided to counsel for the Defendant.

Respectfully submitted, this 29th day of December, 1998.

JANICE McKENZIE COLE  
United States Attorney

BY: \_\_\_\_\_  
Assistant United States Attorney  
Criminal Division

CERTIFICATE OF SERVICE

This is to certify that I have this    day of    , 2001,    served a copy of the foregoing  
-- UNITED STATES' NOTICE OF THE FILING OF JUVENILE RECORDS OF JUVENILE  
(    ), 18 U.S.C. 5032 (UNDER SEAL) -- upon the Defendant in this action by depositing a copy  
of the same in the United States mail in a postpaid envelope, certified mail to be opened by  
addressee only, addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
FELICE McCONNELL CORPENING  
Assistant United States Attorney  
Criminal Division

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA )

v. )

JUVENILE ( ) )

FILING OF JUVENILE RECORDS

18 U.S.C. § 5032

(UNDER SEAL)

The United States of America, by and through the United  
States Attorney for the Eastern District of North Carolina, hereby files with the court copies of  
juvenile records in the above listed case pursuant to Title 18, United States Code, Section 5032.

This the \_\_\_\_ day of December, 1998.

JANICE McKENZIE COLE  
United States Attorney

Assistant United States Attorney  
Criminal Division

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA )

v. )

JUVENILE MALE ( ) )  
\_\_\_\_\_ )

JUVENILE INFORMATION

18 U.S.C. § 5032

(UNDER SEAL)

The United States Attorney charges that:

COUNT ONE

On or about \_\_\_\_\_, in the Eastern District of North Carolina, the defendant, JUVENILE MALE ( ), did commit the following act of juvenile delinquency, to wit: (track language of statute e.g. did by force, violence, and intimidation, take from the person and presence of other persons approximately \$3,044.00 in United States currency belonging to and in the care, custody, control, management, and possession of State Employees Credit Union, located at 6320 Capital Boulevard, Raleigh, North Carolina, the deposits of which were insured by the National Credit Union Association, and in committing such offense, the defendant, JUVENILE MALE ( ), did assault and put in jeopardy the life of said persons by the use of a dangerous weapon, that is, a firearm, in violation of Title 18, United States Code, Sections 2113(a) and (d), and 5032; and the

defendant, JUVENILE MALE, did aid and abet another person in the commission of the offense, in violation of Title 18, United States Code, Sections 2 and 5032.

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JANICE McKENZIE COLE  
United States Attorney



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA

v.

JUVENILE MALE ( )

)  
)  
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UNITED STATES' MOTION FOR  
PSYCHOLOGICAL EVALUATION  
OF JUVENILE MALE

18 U.S.C. 5037  
(UNDER SEAL)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Title 18, United States Code, Section 5037, hereby moves this Court to order a psychological exam of JUVENILE. In support thereof, the United States shows the following:

1. On \_\_\_\_\_, a Juvenile Information was filed against JUVENILE, defendant herein, and charged him with armed bank robbery in violation of Title 18, United States Code, Sections 2113(a) and (d); use of a firearm during a commission of a crime of violence in violation of Title 18, United States Code, Section 924(c); aiding and abetting the commission of these offenses in violation of Title 18, United States Code, Section 2; conspiracy to commit armed bank robbery in violation of Title 18, United States Code, Section 371; and possession of a firearm by a juvenile in violation of Title 18, United States Code, Section 922(x)(2).

2. A violation of Title 18, United States Code, Sections 2113(a) and (d), that is, armed bank robbery, is a felony crime of violence.

3. A violation of Title 18, United States Code, Section 924(c), that is, use and carrying of a firearm during and in relation to a crime of violence, is a felony crime of violence.

4. On this day, December 28, 1998, the United States filed a motion seeking to

transfer the matter to the District Court and to prosecute JUVENILE as an adult.

5. Title 18, United States Code, Section 5032 sets out the six factors that a court must address to determine if it is in the best interest of justice to transfer a juvenile to adult status. One of the six factors is the juvenile's present intellectual development and psychological maturity.

6. Title 18, United States Code, Section 5037(d), allows the Court to order a juvenile who is alleged delinquent to undergo a psychological examination.

7. In order for the Court to best evaluate JUVENILE's present development and psychological maturity as required by 18 U.S.C. § 5032, the United States requests that this Court order a psychological evaluation of JUVENILE to be completed by a court-appointed psychologist prior to any transfer hearing.

8. The interest of justice would be served by delaying this matter for purposes of completing a psychological evaluation of JUVENILE.

WHEREFORE, the United States respectfully requests that the Court enter an Order directing that the JUVENILE be examined and a report prepared concerning his intellectual development and psychological maturity. The United States further requests that any period of delay resulting from this motion be excluded under Title 18, United States Code, Section 5036 as being in the interest of justice. A proposed order is attached.

Respectfully submitted, this 28th day of December, 1998.

JANICE McKENZIE COLE  
United States Attorney

BY: \_\_\_\_\_  
Assistant United States Attorney  
Criminal Division

**CERTIFICATE OF SERVICE**

This is to certify that I have this 28th day of December, 1998, served a copy of the foregoing -- UNITED STATES' MOTION FOR PSYCHOLOGICAL EVALUATION OF JUVENILE MALE ( ), 18 U.S.C. § 5037 (UNDER SEAL) -- upon the Defendant in this action by depositing a copy of the same in the United States mail in a postpaid envelope addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Assistant United States Attorney  
Criminal Division

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
\_\_\_\_\_ DIVISION

NO. \_\_\_\_\_

UNITED STATES OF AMERICA	:	
	:	
v.	:	<u>MEMORANDUM OF PLEA</u>
	:	<u>AGREEMENT</u>
JUVENILE ( )	:	

The United States of America ("Government"), by and through the United States Attorney for the Eastern District of North Carolina ("USA-EDNC"), and the Juvenile, with the concurrence of the Juvenile's Attorney, \_\_\_\_\_, have agreed that the above-captioned case should be concluded in accordance with this memorandum of Plea Agreement as follows:

1. This memorandum constitutes the full and complete record of the Plea Agreement. There are no other agreements between the parties in addition to or different from the terms herein:

2. The Juvenile agrees:

- a. To admit to the delinquency in Count(s)\_\_\_\_\_ of the Juvenile Information herein.
- b. To make restitution to any victim in whatever amount the Court may order, pursuant to 18 U.S.C. §§ 5037 and 3663. **(Restitution can be ordered only as a condition of probation)**
- c. To waive knowingly and expressly the right to appeal whatever sentence is imposed on any ground, including any appeal pursuant to 18 U.S.C. § 3742, and further to waive any right to contest the adjudication of delinquency or the sentence in any post-conviction proceeding, including any proceeding under 28

U.S.C. § 2255, excepting an appeal or motion based upon grounds of ineffective assistance of counsel or prosecutorial misconduct not known to the Juvenile at the time of the Juvenile's admission of delinquency. The foregoing appeal waiver does not constitute or trigger a waiver by the Government of any of its rights to appeal provided by law.

- d. To waive all rights, whether asserted directly or through a representative, to request or receive from the United States any records pertaining to the investigation or prosecution of this matter, except as provided in the Federal Rules of Criminal Procedure. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974.
- e. To assist the Government in the recovery, return to the United States, seizure, and forfeiture of any assets, domestic or foreign, which have been acquired directly or indirectly through unlawful activities, and to forfeit voluntarily to the United States all such assets in which the Juvenile has any interest or control, either indirect or direct.
- f. To complete and submit, if requested, a financial statement under oath to the Office of the USA-EDNC no later than two weeks after the entry of the admission of delinquency.
- g. To abide by any conditions of release pending sentencing and report timely for service of sentence.
- h. To testify, whenever called upon to do so by the Government, fully and truthfully in any proceeding, and to disclose fully and truthfully in interviews with Government agents, information concerning all conduct related to the Criminal

Information and any other crimes of which the Juvenile has knowledge. These obligations are continuing ones. The Juvenile agrees that all of these statements can be used against the Juvenile at trial if the Juvenile is allowed to withdraw the guilty plea.

- i. If the Juvenile provides false, incomplete, or misleading information or testimony, this would constitute a breach of this Agreement by the Juvenile, and the Juvenile shall be subject to prosecution for any federal criminal violation. Any information provided by the Juvenile may be used against the Juvenile in such a prosecution.
- j. To submit to a polygraph examination whenever requested by the Office of the USA-EDNC. The results of these examinations will be admissible only at the Juvenile's sentencing, and at any hearing as to whether there has been a breach of this agreement. The Government may rely on these results in determining whether the Juvenile has fulfilled any obligation under this Agreement.

3. The Juvenile understands:

- a. That as to each Count of the Juvenile Information to which the Juvenile is admitting delinquency, the charge, code section, elements, and applicable penalties are as follows:

Count One

- (1) Description of Offense
- (2) Statute: 18 U.S.C. § 5032 and the underlying statute is \_\_\_\_\_
- (3) Elements:
- (4) Maximum penalty which could be imposed upon an admission of

delinquency to Count \_\_\_\_\_ is \_\_\_\_\_.

(5) Regardless of the maximum penalties above, the maximum sentence which could be imposed upon a finding of delinquency for (all counts) cannot exceed official detention past the Juvenile's 21<sup>st</sup> birthday. **(But see 18 U.S.C. § 5037(c)(2)(A) and apply if applicable)**

- b. That sentencing will be in accordance with Title 18 U.S.C. §§ 5031-5042. The United States Sentencing Guidelines do not apply. However, the sentence imposed upon a juvenile delinquent may not exceed the maximum of the guideline range applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor sufficient to warrant an upward departure from the guideline range. United States v. R.C.L., 112 S.Ct. 1329 (1992).
- c. That the Court is not bound by any sentence recommendation or agreement as to Guideline application, that the sentence has not yet been determined by the Court, that any estimate of the sentence received from any source is not a promise, and that even if a sentence up to the statutory maximum is imposed, the Juvenile may not withdraw the plea of guilty.

4. The Government agrees:

**To dismiss Count(s) if applicable.**

- a. That it reserves the right to make a sentence recommendation.
- b. That it reserves the right at sentencing to present any evidence and information pursuant to 18 U.S.C. § 3661, to offer argument or rebuttal, to recommend imposition of restitution, and to respond to any motions filed by the Juvenile.
- c. That the USA-EDNC will not further prosecute the Juvenile for conduct

constituting the basis for the Criminal Information; however, this obligation is limited solely to the USA-EDNC and does not bind any other state or federal prosecuting entities.

- d. That the USA-EDNC agrees not to share any information provided by the Juvenile pursuant to this Agreement with other state or federal prosecuting entities except upon their agreement to be bound by the terms of this Agreement.

This is the \_\_\_\_ day of \_\_\_\_\_, 2000

JANICE McKENZIE COLE  
UNITED STATES ATTORNEY

\_\_\_\_\_  
JUVENILE DELINQUENT

BY: \_\_\_\_\_

Assistant United States Attorney    Attorney for Juvenile  
Criminal Division

APPROVED, this \_\_\_\_\_ day of \_\_\_\_\_, 2000

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE



### **Chapter III -Juvenile Pretrial Services Process**

- ▼ Prior to conducting an interview with the juvenile, the officer explains the content of the Notice to Defendant form (PS1), allows the juvenile to read it, and asks the juvenile to sign it. The explanation should include the same information as given to an adult defendant but in language that a juvenile can understand.
- ▼ The juvenile has the right to have a parent or guardian present when he or she makes the decision to waive an attorney for the interview. If present, the parent or guardian must sign the waiver and may be present throughout the interview if they so choose.
- ▼ The guidelines which apply to the interview of an adult also apply to a juvenile. As with adults, the pretrial services officer should make every attempt to conduct the interview in a private area, out of earshot of other juveniles or adult defendants. This is especially important due to the more restrictive confidentiality regulations applicable to juveniles.
- ▼ The pretrial services officer should attempt to have the Authorization to Release Confidential Information (PS6) signed by the juvenile and his attorney, parent, or guardian before contacting the juvenile's employer, school, doctor, etc., for information. If the form is not signed, any record that can be legally obtained can be requested by the officer.
- ▼ The PS6b form (Authorization to Release Confidential Information Drug or Alcohol Abuse Programs) is used by the officer to receive confidential information from drug or alcohol programs where the juvenile received counseling or treatment. This form must also be signed by the juvenile and his attorney, parent, or guardian.
- ▼ Unless a written waiver of protection is executed by the juvenile's attorney or guardian, the investigation of the juvenile's background is conducted without the disclosure of the juvenile's court status to the information sources (except as described in 18 USC §5038). Such a waiver would allow the pretrial services officer to release otherwise confidential information in order to investigate the juvenile's background, to properly assess the juvenile's risk, and to properly supervise the juvenile if released to pretrial services supervision. The juvenile and his attorney, parent, or guardian must waive protection under 18 USC §5038 prior to disclosure to outside parties.
- ▼ Because juvenile criminal records are not entered into NCIC, criminal record checks are usually conducted in person at the local juvenile courts and/or police departments. Juvenile records are often sealed and may require a court order to obtain. The use and disclosure of juvenile criminal records must comply with state law.
- ▼ During the verification process, the pretrial services officer should handle verification with discretion. Every attempt should be made to verify information through alternative sources, e.g., paychecks, confirmation from family members, employment identification cards, report cards, etc. All verification should be completed in keeping with confidentiality guidelines.

▼ **Pretrial Services Report:**

(1) Format: The pretrial services report on juveniles is written in the same format as that of an adult. However, the juvenile is referred to as “the juvenile” rather than “the defendant.”

(2) Assessment: In addition to assessing risk of nonappearance and danger, as with an adult, the pretrial services officer must also consider factors which could affect the **safety of the juvenile** (18 USC §5034). These factors might include the living situation of the juvenile if released, family relationships and other support systems, peer relationships, the social situation, available community resources, mental and physical health, emotional state, leisure activities, etc.

(3) Recommendation: If a recommendation for release is made, the pretrial services officer should make every attempt to identify an appropriate custodian for the juvenile. If no appropriate custodian is available, the juvenile nonetheless may have a constitutional right to be released if appropriate.

Recommendations for release should include the least restrictive condition or combinations of conditions under 18 USC §3142(g) that will reasonably assure the juvenile’s reappearance and safety, and the safety of the community.

Conditions of release which involve posting property or money may be recommended only to assure the future appearance of the juvenile in court. Financial conditions may not be recommended to address the safety of the juvenile or the safety of the community.

The statute requires that a juvenile be detained if no conditions will reasonably assure the reappearance and safety of the juvenile and the safety of the community (18 USC §5034). If a recommendation for detention is made, the pretrial services officer should ensure that the US Marshals are aware of the requirements regarding detention of a juvenile.

## **PRETRIAL DIVERSION PROCEDURES**

Pretrial diversion is an administrative procedure of the Department of Justice that provides an alternative to prosecution. The U.S. Attorney's Office may divert individuals in accordance with Department of Justice eligibility guidelines, to the Pretrial Diversion Program.

Pretrial Services is permitted under the legal authority contained in 18USC3154(10) "to the extent provided for in an agreement between the Chief Pretrial Services Officer .....and the U.S. Attorney, collect, verify, and prepare reports for the United States Attorney's Office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement."

The objectives of the program are to preserve prosecutorial and judicial resources for serious criminal matters and to provide alternative treatment and intervention to those individuals for whom traditional prosecution may be less effective. Pretrial diversion is an alternative to prosecution accomplished by processing offenders into a program of community supervision administered by the pretrial services office.

### **Pretrial Diversion Investigation Process**

The pretrial diversion process may begin prior or subsequent to the formal filing of charges. In both instances prosecution for the offense is suspended, and upon successful completion of the period of supervision, charges are dismissed or never filed. *An offenders participation in the diversion program must be voluntary.* Pretrial diversion cases are usually selected by the (S)AUSA but in certain situations the pretrial services officer may recommend to the (S)AUSA that a particular offender be considered for the program.

#### ***Pre-Investigation Process***

- The (S)AUSA identifies offenders susceptible to rehabilitation and meeting the criteria set forth in the U.S. Attorney's manual.
- The (S)AUSA will send a target letter along with an *Application to Participate in the Pretrial Diversion Program* to the candidate and/or counsel.
- ALL juvenile candidates must be represented by counsel. Counsel is optional for adult candidates.
- Should the candidate not be represented by counsel (representation by counsel is not mandatory however is suggested as participation in the program constitutes the waiver of numerous rights) and wish to be represented prior to signing the application, he/she may apply for court appointed counsel. The (S)AUSA office may refer the candidate to the Pretrial Services Office to complete a *Financial Affidavit*.

- The candidate has 30 days to respond to the target letter or be placed on the court docket for prosecution.
- Once the candidate returns the application accepting consideration for the pretrial diversion program the (S)AUSA will forward to the Pretrial Services Office a referral package (consisting of the *law enforcement investigative report, copy of referral letter sent to the program candidate, and a copy of the application for PTD*) are then forwarded to the Pretrial Services Office.

### ***Investigation Process***

Upon receipt of the referral package the Pretrial Services Office will conduct the necessary background investigation and submit a written report and recommendations to the (S)AUSA no later than 45 calendar days following the assignment to the investigating officer.

The PTD investigation should consist of the following steps:

- **Interview the PTD candidate.** During the interview the officer should complete these requirements:
  - Explain the PTD program to the candidate.
  - Have the candidate sign the following documents:
    - A. Authorization to Release Information (also signed by an adult if the candidate is a juvenile).
    - B. Authorization to Release Financial Information.
    - C. Authorization to Release Confidential Military Information (if applicable).
    - D. Any other release form (some mental health/substance abuse treatment facilities require the candidate sign their own specific release form).
  - Candidate should complete Defendant Version form (a statement *accepting responsibility* for their involvement in the instant offense).
  - Candidate should be interviewed on the *PS-2A form*.
- **Record check.** The officer should ensure a DMV/DCI/AOC record check is performed. When necessary collateral record checks should be obtained from other districts.
- **Field visit.** In felony PTD cases (and when necessary in misdemeanor cases) the investigating officer shall conduct a home visit to verify the candidate's residence and to augment information gathered at the initial interview.
- **Credit Bureau Check.** The investigating officer should submit the *Authorization to Release Financial Information* form and the *Request for Credit Bureau Report* form to the Chief Clerk/O.S. in the Raleigh, NC Pretrial Services office who will then forward to US Probation for completion.
- **Verification of information.** The investigating officer is required to verify background information on the candidate to ensure their suitability for the PTD program. The following are minimum verification requirements:
  - Immediate family members: to verify personal history and candidate lifestyle.

- Current/previous employers: to verify the past 5 years (or back to candidate's 16<sup>th</sup> birthday) of employment history. It's not necessary to verify periods of employment which did NOT last in excess of six months in length.
- Probation/Parole authorities: to verify candidates current status and ability to be supervised.
- Tax Office: to determine property tax listings and ownership of real estate.
- Medical/Psychological/Drug Treatment records: to verify current or previous treatment occurring within the past 10 years.
- Educational records: to verify educational history unless the candidate has been out of school for over 20 years.
- Credit Bureau records: to verify credit history by submitting credit bureau forms to Raleigh office for completion.
- Miscellaneous information: Officer to use judgement on verifying information which might prove insightful in determining a candidate's suitability (example: Choice Point).

### ***Report Format***

The PTD report should be prepared in a memorandum or letter format addressed to the (S)AUSA. The letter should be categorized into 4 major sections which are as follows:

- **Personal History**: Including family ties, education, employment, health, and military history. A statement indicating these items were verified and how should also be included.
- **Financial History**: Assets, liabilities, and ability to pay restitution.
- **Criminal History**: Record checks with collateral inquiries (if necessary).
- **Assessment and Recommendation**:
  - Determination of the candidate's suitability for PTD by assessing the prognosis for successful completion of the program.
  - If the candidate is *suitable* for the program this section should also include a recommended length of supervision and special conditions.
  - If the candidate is determined *not to be suitable*, the investigating officer should discuss this fact and the reasons for such a recommendation with his/her SUSPSO. The investigating officer should make an appropriate statement in this section of the report explaining why Pretrial Services found PTD supervision inappropriate.

Felony reports are to be approved by the SUSPSO prior to their submission. It is not necessary to submit misdemeanor reports for approval unless specifically requested by the SUSPSO. Once the report is completed (and approved if necessary) it should be forwarded to the (S)AUSA requesting the investigation for consideration.

### ***PTD Agreement***

- The decision to place an offender on the PTD program is ultimately determined by the (S)AUSA.
- If, after review of the PTD investigation, the candidate is accepted into the program the (S)AUSA will prepare the PTD Agreement which shall state the *general* and *special* conditions of the program (refer to Supervision section of this chapter).
- The agreement will also provide the duration of the PTD program. The standard duration will be no less than 6 months but no more than 18 months (exceptions can be made on a case by case basis).
- The (S)AUSA should affix his/her signature to the agreement and forward same to the Pretrial Services officer to secure the candidate's signature as well as that of his/her attorney (if applicable).
- *In cases where a charging document has been filed with the U.S. Courts it will be necessary to have the presiding judge sign the agreement as well.*
- The candidate's Pretrial Diversion period will begin on the date the candidate (or when applicable, the presiding judge) signs the Pretrial Diversion Agreement.

### ***PTD Enrollment***

The PTD candidate, his/her attorney (if applicable) and the supervising officer should be present at the initial meeting. At this first meeting between the divertee and the supervising officer the following should occur:

- The officer and the candidate should review the conditions of the program ensuring the participants responsibilities are understood.
- The officer should provide the participant with all necessary information to comply with the PTD conditions (these include but are not limited to: a copy of the PTD agreement, office phone number; monthly reports, contact phone numbers for referral agencies such as Community Service coordinators, mental health/substance abuse referrals, and employment agencies; etc.)
- Photograph the divertee. (juvenile pictures are kept in the pretrial file only-not to be distributed)
- Set schedule for initial PCH, for submission of monthly reports, and future reporting instructions.
- The officer should ensure the PTD agreement is signed and dated.
- The original agreement should then be returned to the (S)AUSA office (unless the agreement requires signature of the presiding judge in which the original of the PTD agreement should be filed with the appropriate Clerk of Court office).

### ***Fingerprinting of Pretrial Divertee's (adult offenders only)***

- Juvenile divertee's will not be fingerprinted.

Pretrial Divertee's placed on the program where the underlying offense is a *felony* should be fingerprinted. It is not necessary to fingerprint *misdemeanor* cases unless circumstances surrounding the case leads the officer to believe such would be appropriate. The SUSPSO will have authority to approve the fingerprinting of a misdemeanor.

- The divertee should be fingerprinted by either the investigating agency or the US Marshal.
- Once the fingerprints are submitted to the FBI the officer should submit *FBI form 1-12 ("Flash Notice")* to the Director, FBI, Washington, DC 20537. The form should include:
  - The status of the PTD.
  - The expiration date of the PTD period.
  - The underlying offense should be noted in the "charge" block.
  - "Pretrial Diversion" should be written in the "disposition" block.
  - The FBI number (if applicable).
  - A statement noting that Pretrial Services should be notified if the divertee is arrested while on pretrial diversion. The office location, ORI number, and address of the parties to be advised of an arrest should also be included.
  - See PTD Termination section regarding closure of FBI fingerprint file.

### **Supervision**

The objective of the PTD program is to insure the divertee avoids further criminal activity and complies with all the conditions of diversion.

There are two types of conditions: ***General*** (common to all PTD participants) and ***Special*** (unique to individual PTD participants).

#### ***General Conditions***

- **Report to officer:**
  - Divertee's usually submit *written monthly reports* answering diversion related questions.
  - Divertee's are to have *personal contact* with their officer a minimum of once every other month.
  - Divertee's are encouraged to have *telephone contact* with their officer whenever needed.
- **Employment / Education:**
  - Divertee's are to work full time at a suitable verifiable job, be enrolled in an educational institution full time, or a part-time combination of the two to satisfy this condition.
  - The officer should verify employment by observing pay stubs or speaking with employers.
  - The officer should verify enrollment in school by observing report cards, tuition receipts, or by speaking with school counselors/registrar's offices.

- **Inform officer of changes in address/phone number:**
  - Divertee's should be instructed to inform their officer as far in advance as possible (preferably 48 hours) of changes in contact information as well as needs to move from the district of supervision.
- **Not to violate national, state, or local laws:**
  - Divertee's should be instructed to report any contact with law enforcement authorities to their Pretrial Services officer within 24 hours of the incident or the next business day.
  - The pretrial officer should conduct criminal record inquiries a minimum of once every six months while under supervision and prior to termination.

***Special Conditions\****

- **Restitution:**
  - Divertee's should mail or hand deliver to their supervising officer a money order or cashier's check made out to the victim.
  - The officer should make a photostatic copy of the payment and place the copy in the supervision file.
  - The officer should mail the payment to the victim.
  - The officer should ensure the payment is logged in the office *Check / Money Order Log*.
  - The officer should ensure the payment is logged in the supervision file's *Restitution Log*.
  - Quarterly contact with the victim should be made to ensure satisfactory payment of restitution.
- **Community Service:**
  - Divertee's should first read and sign the *Community Service Agreement* form.
  - The supervising officer should use the State Community Service coordinators located in each county (Refer to PDS manual for specific instructions).
  - When referral through the state program is not feasible, however, the officer should discuss this fact with their SUSPSO who will have the authority to make final determination of an appropriate "self" placement. In this case the officer should:
    - Work together with the divertee to secure a community service placement.
    - The officer should investigate the intended community service work site to ensure it satisfies the basic criteria for community service work.
    - The officer should forward to the community service placement a cover letter explaining the duration of the community service obligation and provide the coordinator with logs to summarize community service work performed by PTD participants.
    - The coordinator should mail/fax these completed logs to the supervising officer once monthly.



- **UA's / Treatment:**

- Divertee's who require urinalysis testing, mental/emotional health or substance abuse assessments and treatment should be referred to contract vendors whenever possible (see DATS manual).

***\* there are numerous other special conditions which may be imposed and should be considered on a case by case basis. The above is a reflection of those special conditions most commonly imposed.***

***Initial Case Supervision Plan***

- As with bond release cases an *Initial Case Supervision Plan* must be submitted to the officers SUSPSO within 15 days (Refer to Supervision chapter regarding completion of the ICSP) .
- The officer is to complete this form in the same manner as in all bond release cases. However, should the participant's pretrial diversion period not exceed six months an Initial Case Supervision Plan can be submitted in the file narratives.

***Violations***

Should the divertee violate the terms of his/her agreement the violations should be discussed with the SUSPSO to determine an appropriate response.

Violation of the PTD agreement can be *technical* in nature or the result of *new criminal activity*.

- **Technical:**

- The divertee has committed a technical violation when he/she fails to comply with the terms of the agreement.
- Should this occur the officer should attempt to speak with the divertee and divertee's defense counsel (if applicable). The attorney may be able to motivate his/her client to comply.
- If this fails the officer should inform the (S)AUSA/Defense attorney of the violation and provide a recommendation as to the continuation of pretrial diversion supervision or withdrawal of the PTD agreement.

- **New Criminal Activity:**

- If the divertee is charged with a new criminal offense while on PTD a report detailing the offense should be provided to the (S)AUSA with a recommendation as to the continuation/withdrawal of the PTD agreement.

**PTD Extension**

- Should the divertee not complete his/her requirements by the designated termination date the divertee (and/or their attorney if applicable), the officer, or the (S)AUSA can move to have the period of PTD supervision extended. Extensions are typically requested by the supervising officer.

- Extensions are requested to allow the divertee extra time to complete community service requirements, complete a treatment program, or satisfy a restitution balance.
- Pretrial Diversion supervision periods normally do not exceed 18 months in length. However, exceptions can be made when all parties involved agree to the extension.
- The supervising officer would move to have a PTD program extended by submitting a request in writing to the (S)AUSA explaining the need for the extension and proposing a new termination date.
- The decision to award and extension is the exclusive decision of the (S)AUSA.
- If the (S)AUSA agrees with the recommendation to extend he/she must produce a documents setting out the length of the extension and provide signature lines for the (S)AUSA, Pretrial Services Officer, Divertee, and Divertee's attorney (if applicable).
- Once the extension is approved the officer must make appropriate changes to the PS-2A and submit for data input.

### **PTD Early Termination**

- Pretrial divertee's can be awarded early termination. Early termination is a decision made by the (S)AUSA based upon the divertee's performance on the program.
- Prior to a request for early termination the supervising officer should discuss the matter with their SUSPSO. Consideration for early termination is made on a case by case basis.
- A record check should be made to determine if there have been any arrests while on PTD supervision.
- To request early termination the supervising officer will submit a letter to the (S)AUSA outlining the reasons for considering early termination and make a formal request to terminate by a set date.
- The (S)AUSA will render a decision on this issue and provide the officer with a written response agreeing or disagreeing with the officers recommendation.
- Once the early termination is approved the officer must make appropriate changes to the PS-2A and submit for data input.
- (Adult divertee's only) If a felony case and the divertee has successfully completed the PTD program the officer should submit *FBI form R-84 (Final Disposition Report)* to the Director, FBI, Washington, DC 20537 indicating the final disposition and date of disposition. **NOTE: In juvenile pretrial diversion cases, this information is not forwarded to the FBI.**

### **PTD Termination**

- Should the divertee comply with all conditions of the PTD program by the scheduled termination date the officer will recommend the termination of the PTD program and the issuance of a Dismissal Order.
- A final record check should be performed to determine if there have been any arrests while on PTD supervision.

# PRETRIAL SERVICES

## NOTICE TO DEFENDANT

I, \_\_\_\_\_,  
Print Name (First, Middle, Last)

am being asked questions about myself by a pretrial services officer. I will not be questioned about the charges and I should avoid talking about them at this time. I understand that I am under no obligation to provide any information and do not have to answer any questions.

Any answers to these questions will be used by the court to decide whether I will be released or kept in jail pending any further proceedings. The information will be made available to the court, to my attorney, and to the prosecuting attorney.

Any information I provide should be truthful. Providing false information is a separate crime and could be used to deny my release before trial or increase my sentence if I am convicted.

If I am found guilty, either after trial or after pleading guilty, the information I provide here will be made available to a U.S. probation officer for the purpose of preparing a presentence report and may affect my sentence in this or another case.

I know I have the right to speak with a lawyer before answering any questions. If I cannot afford a lawyer, one will be appointed to represent me. Asking for a lawyer will not hurt my chance for pretrial release, but may delay the decision on whether or not I will be released until counsel is obtained.

I have read this form, or had it read to me, and I understand what it means.

I do \_\_\_\_\_ I do not \_\_\_\_\_ want a lawyer during this interview.

DATE: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT'S SIGNATURE

\_\_\_\_\_  
PRETRIAL SERVICES OFFICER

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AUTHORIZATION TO RELEASE INFORMATION**  
**(PRIVATE PERSON OR ORGANIZATION)**  
**TO PRETRIAL SERVICES OFFICER**

**TO WHOM IT MAY CONCERN:**

I, \_\_\_\_\_, the undersigned, hereby authorize the  
United States Pretrial Services Office for the \_\_\_\_\_ District of \_\_\_\_\_  
or its authorized representative(s) or employee(s), bearing this release or copy thereof, to obtain any in-  
formation in your files pertaining to my:

- ☐ Employment
- ☐ Education Records (including but not limited to academic achievement, attendance,  
athletic, personal history, and disciplinary records)
- ☐ Medical Records
- ☐ Psychological and Psychiatric Records

I hereby direct you to release such information. This release is executed with full knowledge and un-  
derstanding that the information is for the United States Pretrial Services Office's official use.

I hereby release you, as custodian of such records, any school, college, or university, or other educa-  
tional institution; hospital or other repository of medical records; social service agency; any employer, or  
retail business establishment including its officers, employees, or related personnel both individually and  
collectively, from any and all liability for damages of whatever kind which may at any time result to me,  
my heirs, family, or associates because of compliance with this authorization and request for information  
or any other attempt to comply with it.

The information hereby obtained by the aforementioned pretrial services office is to be used only for  
the purpose of pretrial services investigation and report and, if applicable, for supervision. If I am found  
guilty, such information will also be made available to the probation office for the purpose of preparing  
a presentence report, in accordance with Federal law.

\_\_\_\_\_  
(Authorizing Signature—Full Name)

\_\_\_\_\_  
(Full Name—Printed or Typed)

\_\_\_\_\_  
(Date)

WITNESS—

\_\_\_\_\_  
(Pretrial Services Officer)

\_\_\_\_\_  
(Date)

**AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION  
(DRUG OR ALCOHOL ABUSE PROGRAMS)  
UNRESTRICTED COMMUNICATION**

I, \_\_\_\_\_, the undersigned,  
*(Name of Client)*

hereby authorize \_\_\_\_\_ to release confidential  
*(Name of Program)*

information in its records, possession, or knowledge, of whatever nature may now exist or come to exist, on an *unrestricted communications* basis to the United States Pretrial Services or Probation Office (strike one) of the \_\_\_\_\_ District of \_\_\_\_\_.

The confidential information to be released will include: date of entrance to program, attendance records, urine testing results, type, frequency and effectiveness of therapy, general adjustment to program rules, type and dosage of medication, response to treatment, test results (psychological, vocational, etc.), date of and reason for withdrawal from program, prognosis.

The information which I now authorize for release is to be used in connection with my participation in the aforementioned program which has been made a condition of my pretrial release.

I understand that the pretrial services or probation office (strike one) may use the information hereby obtained only in connection with its official duties, including total or partial disclosure of such, to the District court when necessary for the purpose of discharging its supervisory duties over me.

I further understand that while I remain under supervision by the pretrial services or probation office (strike one) I cannot revoke this consent.

This consent will terminate upon final disposition of the case for which I am on pretrial release or at such earlier time as the Court terminates the supervision.

\_\_\_\_\_  
*(Signature of Parent or Guardian if Client is a Minor)*

\_\_\_\_\_  
*(Signature of client)*

\_\_\_\_\_  
*Signed)*

\_\_\_\_\_  
*(Date Signed)*

\_\_\_\_\_  
*(Name & Title of Witness)*

\_\_\_\_\_  
*(Date Signed)*

JUVENILE WAIVER OF PROTECTION OF 18 U.S.C. § 5038

TO PRETRIAL SERVICES OFFICER:

I, \_\_\_\_\_, the undersigned, hereby authorize the United States Pretrial Services Office for the \_\_\_\_\_ District of \_\_\_\_\_ or its authorized representative(s) or employee(s) to release confidential information pertaining to my arrest, court proceedings and compliance with conditions of release. This information may be released in order to gather information regarding my:

- \_\_\_ Employment
- \_\_\_ Education
- \_\_\_ Medical Records
- \_\_\_ Psychological and Psychiatric Records

This information is to be released only for the purpose of pretrial services investigation and report, and, if applicable, for supervision.

I hereby release Pretrial Services from any and all liability for damages of whatever kind which may at any time result to me, my heirs, family, or associates because of compliance with this waiver and release of information or any other attempt to comply with it.

\_\_\_\_\_  
(Juvenile's Signature)      (Full name - printed)      (Date)

I, the attorney, parent, or guardian of the above juvenile, having read the above, hereby authorize the juvenile to sign this release and waive the protection of 18 U.S.C. § 5038 for the above stated purposes.

\_\_\_\_\_  
(Authorizing Signature)      (Full name - printed)      (Date)

\_\_\_\_\_  
(Relationship to Juvenile)

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THIS REPORT IS PROVIDED FOR THE PURPOSE OF BAIL DETERMINATION ONLY AND SHALL OTHERWISE BE CONFIDENTIAL PURSUANT TO 18 USC §3153(c)(1) AND THE CONFIDENTIALITY REGULATIONS ISSUED BY THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS ON JUNE 10, 1985.

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**PRETRIAL SERVICES REPORT**

**DISTRICT/OFFICE:** Eastern District of North Carolina  
\* Division

**JUDICIAL OFFICER:** The Honorable \*  
United States Magistrate Judge

**DOCKET NUMBER:**

**CHARGE:**

**DEFENDANT IDENTIFICATION**

**NAME:**

**ADDRESS:**

**TIME AT ADDRESS:**

**TIME IN COMMUNITY:**

**EMPLOYMENT:**

**ADDRESS:**

**MONTHLY INCOME:**

**TIME IN EMPLOYMENT:**

**DEFENDANT HISTORY**

THE DEFENDANT WAS INTERVIEWED ON \*. UNLESS OTHERWISE INDICATED, INFORMATION CONTAINED IN THIS REPORT WAS VERIFIED THROUGH THE FOLLOWING INVESTIGATIVE CONTACTS: \*; AND THROUGH AN AUTOMATED RECORD CHECK.

**DEFENDANT HISTORY/RESIDENCE/FAMILY TIES:**

**EMPLOYMENT HISTORY/FINANCIAL RESOURCES:**

ASSET	VALUE
*	\$*
*	\$*
*	\$*
*	\$*

LIABILITY	TOTAL DEBT	PAYMENT
*	\$*	\$*
*	\$*	\$*
*	\$*	\$*
*	\$*	\$*

**HEALTH:**



**PRIOR RECORD:**

National, state and local record checks were completed; the following information was obtained:

Date of Arrest	Charges/Court	Date Sentence Imposed/ Disposition

**ASSESSMENT OF NONAPPEARANCE/DANGER:**

**RECOMMENDATION**

Respectfully submitted,

\*

U.S. Pretrial Services Officer

XXX:xx

date

<b>UNITED STATES DISTRICT COURTS DEFENDANT WORKSHEET Eastern District of North Carolina</b>	DOCKET NUMBER (1-4)	Circuit	District	Office	Year	Mag. #	
	Dis. Crt. #						
<b>9. COURT NAME (Last, First, Middle)</b>	<b>5. INTERVIEW STATUS</b> A. Interviewed <input type="checkbox"/> B. Refused Interview C. Not Interviewed D. Not Applicable		<b>6. INTERVIEW DATE</b>		<b>8. INTERVIEW OFFICER</b>		<b>FACTS NO.:</b>
	A. Interviewed <input type="checkbox"/> B. Refused Interview C. Not Interviewed D. Not Applicable		<b>7. INTERVIEW TIME</b>		<b>ASSIGNED PSO</b>		<b>ASSIGNED USPO:</b>
<b>TRUE NAME:</b>	<b>10. REFERRAL ACTION</b> A. Arrest B. Non-Arrest <input type="checkbox"/> X. Not Applicable		<b>11. TYPE OF CASE **See 12 if Rule 40</b> A-Complaint B-Indict/Info C-Material Witness E-Other F-Superseding <input type="checkbox"/> G-Collateral H-PSA Courtesy T-Transfer In				
<b>AKA:</b>	<b>12. Rule 20/40 Transfer</b> Y-Yes / IN OUT N-No		<b>12A. Transfer Date</b>			<b>13. Receive/Close District</b>	
	<b>14. SEX</b>		<b>15. DOB</b>		<b>AGE</b>		<b>DRIVER'S LICENSE NO.</b>
<b>MAIDEN NAME:</b>	<b>HEIGHT</b>	<b>WEIGHT</b>	<b>EYES</b>	<b>HAIR</b>			
<b>USM REG. #:</b> _____ <b>FBI #:</b> _____ <b>STATE #:</b> _____ <b>OTHER #:</b> _____ <b>OTHER #:</b> _____	<b>16. SOCIAL SECURITY NO.</b>		<b>SCARS/TATTOOS</b>				
<b>20. RESIDENTIAL STATUS</b> A. Own/Buying      D. No Place to Live <input type="checkbox"/> B. Renting          O. Other C. No Contribution   X. Unknown	<b>17. RACE</b> <input type="checkbox"/> W-White B-Black I -American Indian or Alaskan Native A-Asian/Pacific Islander U-Unknown		<b>18. TIME IN AREA</b> <input type="checkbox"/> Months				
	<b>17A. HISPANIC ORIGIN</b> HH - Hispanic NN - Not Hispanic XX - Unknown <input type="checkbox"/>		<b>19. CITIZENSHIP</b> A. U.S. Citizen <input type="checkbox"/> B. Legal Alien C. Illegal Alien X. Unknown				
<b>PRESENT ADDRESS (Including Apt. #)</b>	<b>ALIEN NO.</b>		<b>ENTERED U.S.</b>			<b>PASSPORTS/VISAS</b>	
<b>County:</b> _____ <b>PHONE: Home</b> <b>Work</b>	<b>Ever Lived Outside of State/Country?</b>						
<b>HOW LONG AT THIS ADDRESS?</b>	<b>Does the Defendant Travel Outside of U.S.? (If yes where)</b> <input type="checkbox"/> Yes <input type="checkbox"/> No						
<b>OTHER OCCUPANTS OF RESIDENCE:</b>	<b>AUSA:</b>			<b>DEFENSE COUNSEL (Name, Address, Phone)</b>			
<b>MAILING ADDRESS (IF DETAINED - PREVIOUS ADDRESS:</b>	<b>ARE THERE FIREARMS IN THE RESIDENCE:</b>						
<b>DIRECTIONS TO RESIDENCE:</b>	<b>ARE THERE ANY SAFETY CONCERNS WITHIN THE HOME OR NEIGHBORHOOD (i.e. Aggressive dogs (dangerous pets)</b>						
	<b>PRIOR ADDRESS (Street, City, State, Dates)</b>						
<b>CONTACT PERSON AT RESIDENCE (Work Phone If Needed)</b>	<b>PRIOR ADDRESS (Street, City, State, Dates)</b>						

**PARENTS/SIBLINGS/FRIENDS**

(List the defendant's biological parents. If defendant was reared by persons other than his natural parents, add the surrogate parent's names immediately below the space allocated to Mother and Father. After the parents, list all siblings, living or dead, and friends who would serve as surety.)

NAME	RELATIONSHIP AND AGE	PRESENT ADDRESS AND TELEPHONE NUMBER	OCCUPATION	SURETY (Y) or (N)
Current Name: Maiden Name:	Mother			
	Father			

Notes regarding family history; identify any significant problems:

*(Use Back If Needed)*

**MARITAL STATUS, PREVIOUS MARRIAGES, INCLUDING COHABITATION**

**21. MARITAL STATUS**

M-Married

S-Single

C-Cohabiting

D-Divorced

P-Separated

W-Widowed

X-Unknown

☐

DOES SPOUSE KNOW ABOUT ARREST?

MAY OFFICER CALL SPOUSE?

LENGTH OF STATUS:

NUMBER OF DEPENDENTS:

LIVE WITH SPOUSE?

Spouse or Domestic Partner Include Maiden Name	Date of Marriage	Place of Marriage	Present Status of Marriage	Date of Separation	Date of Divorce	Court Where Divorce Was Granted	Number Of Children

**CHILDREN**

☐ THE DEFENDANT HAS NEVER HAD ANY CHILDREN.

CHILD'S NAME	NAME OF OTHER PARENT	AGE	CUSTODY/ SUPPORT	CHILD'S ADDRESS AND TELEPHONE (If different from defendant)

Note health problems, criminal history, substance abuse or any other significant information.

**PRESENT EMPLOYMENT INFORMATION**

**22. EMPLOYMENT**

**HOW LONG EMPLOYED/UNEMPLOYED?**

**IF UNEMPLOYED DOES DEFENDANT  
HAVE A VIABLE MEANS OF SUPPORT?**

☐ Y-YES  
☐ N-NO  
☐ X-UNKNOWN

☐ Y-YES  
☐ N-NO

**NAME AND ADDRESS OF EMPLOYER**

**DESCRIBE SOURCE & PAYMENT METHOD**

**TIME AT PRESENT JOB (Months)**

**AMOUNT OF MONTHLY SUPPORT**

**OCCUPATION/TITLE**

**HOURS/WEEK**

**STATUS (Full/Part Time/Self-Employed)**

**SPECIAL SKILLS/TRAINING**

**MONTHLY GROSS**

**MONTHLY NET**

**SUPERVISOR/TITLE/TELEPHONE NO.**

DOES EMPLOYER KNOW ABOUT ARREST? ☐ YES ☐ NO  
CAN EMPLOYER BE CONTACTED? ☐ YES ☐ NO  
CAN DEFENDANT RETURN TO JOB? ☐ YES ☐ NO

**PREVIOUS EMPLOYMENT**

(Describe Defendant's Employment History for the Last 10 Years)

DATES	NAME AND ADDRESS OF EMPLOYER	NATURE OF WORK, WEEKLY WAGES, REASON FOR LEAVING
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		
FROM:		
TO:		

**SUMMARIZE ANY EMPLOYMENT HISTORY OVER TEN YEARS OLD:**



None

## MILITARY SERVICE

BRANCH OF SERVICE:	SERVICE NUMBER:	ENTERED:	DISCHARGED:	TYPE OF DISCHARGE:
HIGHEST RANK:	RANK AT SEPARATION:	DECORATIONS/AWARDS:		VA CLAIM NUMBER:

Summarize the defendant's military service. Describe any Court Martial or non-judicial punishments. Describe any foreign or combat service. Describe any special training or skills in the service. Describe previous VA claims.

## 23. EDUCATION:

HIGHEST GRADE ACHIEVED \_\_\_\_\_

EL - ELEMENTARY  
SC - SOME COLLEGE  
GE - G.E.D  
XX - UNKNOWN

HS - HIGH SCHOOL GRAD  
VC - VOCATIONAL SCHOOL  
PG - POST GRAD

SH - SOME HIGH SCHOOL  
CG - COLLEGE GRAD  
NL - NO EDUCATION



## SCHOLASTIC HISTORY

NAME AND LOCATION OF SCHOOL (List most recent school first)	Dates Attended	Degree, Diploma or Certificate Received

Does the defendant have any specialized training or skill(s)?

YES

NO

If yes, what training or skill(s)?

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Does the defendant have any professional license(s)?

YES

NO

If yes, what license(s)?

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# HEALTH

PHYSICAL HEALTH (Name of Doctor), health problems, present treatment and medication

## DRUG/ALCOHOL ABUSE

(Age use began, frequency, last use, cost, type of drug past and present treatment.

24. SUBSTANCE ABUSE (within last 2 years)

☐ ☐ ☐

N - No Substance Abuse F - Marijuana  
X - Unknown I - Alcohol  
A - Heroin J - Other Illegal Substances  
C - Cocaine Crack  
D - Barbituates Hallucinogens  
E - Amphetamines Inhalants  
Steroids

## MENTAL AND EMOTIONAL HEALTH

The defendant has no history of mental or emotional problems, and no history of treatment for such.

Name and address of Doctor or Counselor; and Condition under treatment.

25. DEFENDANT presently undergoing psychiatric treatment  
Y - YES N - NO X - UNKNOWN

☐

Defendant Presently on Medication? \_\_\_\_\_  
History of Psychiatric Care? \_\_\_\_\_  
Other Mental Health Treatment? \_\_\_\_\_

## FINANCIAL INFORMATION

### LIST FINANCIAL ASSETS

#### CASH ON HAND

SAVINGS ACCT(S) (Where?) \$ \_\_\_\_\_  
CHECKING ACCT(S)(Where?) \$ \_\_\_\_\_  
STOCKS/BONDS \$ \_\_\_\_\_  
IRA's \$ \_\_\_\_\_

(NOTE OTHER ACCOUNTS BELOW)

#### AUTOS:

Make \_\_\_\_\_ Model \_\_\_\_\_ YR \_\_\_\_\_ \$ \_\_\_\_\_  
Make \_\_\_\_\_ Model \_\_\_\_\_ YR \_\_\_\_\_ \$ \_\_\_\_\_

(NOTE OTHER AUTOS BELOW)

#### REAL ESTATE

Description (Include Address) \_\_\_\_\_  
\_\_\_\_\_

DOWN PAYMENT \$ \_\_\_\_\_  
ASSESSED VALUE \$ \_\_\_\_\_  
MARKET VALUE \$ \_\_\_\_\_  
EQUITY \$ \_\_\_\_\_

(NOTE OTHER REAL ESTATE BELOW)

### LIST FINANCIAL LIABILITIES

#### MORTGAGE

NAME OF BANK OR MORTGAGE COMPANY \_\_\_\_\_

ORIGINAL LOAN \$ \_\_\_\_\_  
PRESENT BALANCE \$ \_\_\_\_\_  
MONTHLY PAYMENTS \$ \_\_\_\_\_  
(NOTE OTHER MORTGAGES BELOW:) \$ \_\_\_\_\_  
OUTSTANDING LOAN APPLICATIONS? \$ \_\_\_\_\_

#### PERSONAL LOANS

NAME OF LENDER \_\_\_\_\_  
ORIGINAL LOAN \$ \_\_\_\_\_  
PURPOSE OF LOAN \_\_\_\_\_  
PRESENT BALANCE \$ \_\_\_\_\_  
MONTHLY PAYMENT \$ \_\_\_\_\_  
(NOTE OTHER LOANS ON BACK)

#### CREDIT CARDS

\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_

#### ALIMONY

CHILD SUPPORT \$ \_\_\_\_\_  
COURT ORDERED OR VOLUNTARY? \_\_\_\_\_

MEDICAL BILLS \$ \_\_\_\_\_  
COURT FINES OR RESTITUTION \$ \_\_\_\_\_

PERSONAL PROPERTY (jewelry, collections, etc.) \$ \_\_\_\_\_  
LIFE INSURANCE (Surrender Value) \$ \_\_\_\_\_  
OTHER ASSETS - INCOME SOURCE \$ \_\_\_\_\_  
SPOUSE INCOME \$ \_\_\_\_\_  
SPOUSE OCCUPATION \_\_\_\_\_  
\_\_\_\_\_

INSURANCE PREMIUMS \$ \_\_\_\_\_  
RENT \$ \_\_\_\_\_  
LEASE - WHOSE NAME \_\_\_\_\_  
UTILITIES \$ \_\_\_\_\_  
WHOSE NAME \_\_\_\_\_  
OTHER DEBTS OR MONTHLY EXPENSES \_\_\_\_\_  
\_\_\_\_\_  
EVER FILED FOR BANKRUPTCY? YES NO

ADDITIONAL DATA:

CRIMINAL HISTORY

Unofficial Version Of Prior Record (List below all arrests and whether convicted, including juvenile adjudication)

DATE OF ARREST	AGE	OFFENSE CHARGED	M OR F	COURT	DISPOSITION DATE, DISPOSITION OR NEXT COURT DATE	ATTORNEY Y/N

NO DETAINERS

DETAINERS

AGENCY OR COURT

Defendant presently on PROBATION?  
YES NO

WHERE? Parole/Probation Officer's Name and Address

Defendant presently on PAROLE?  
YES NO

ACCEPTANCE OF RESPONSIBILITY

☐ Declined to discuss. Will provide on or before \_\_\_\_\_.

Defendant's statement regarding offense:

Extraordinary Circumstances:

**VERIFIED CRIMINAL HISTORY (Complete After Record Check)**

**26. CRIMINAL HISTORY STATUS**

- ☐ A - No Criminal History  
☐ B - No Pending Matters  
☐ C - Currently On Pretrial Release  
☐ D - Currently on Parole/Supervised Release  
☐ E - Currently on Supervised Probation  
☐ F - Escape or Walkoff Status  
☐ G - Immigration Status in Question  
☐ K - Outstanding Misdemeanor Warrant  
☐ L - Outstanding Felony Warrant  
☐ M - Pretrial Release and 1 of the above (*specify*)  
☐ N - More than 1 excluding Pretrial Release(*specify*)  
☐ O - Other

**NUMBER OF PENDING CASES**

27. Misdemeanors.....

28. Felonies.....

**PRIORS WHILE ON PRETRIAL RELEASE (Number Of)**

29. Arrests .....

30. Convictions.....

**PRIOR RECORD OF (Number of)**

31. FTA'S.....

32. Escapes/Walkoffs.....

33. Absconding from Bond, Probation, Parole or  
Supervised Release Supervision.....

34. Revocation of conditional release.....

**PRIOR RECORD**

**ARRESTS (Number)**

**CONVICTIONS (Number)**

**VIOLENT (Number)**

**DRUGS (Number)**

**MISDEMEANORS**

35.

36.

37.

38.

**FELONIES**

39.

40.

41.

42.

**NOTES:**

**ARREST INFORMATION**

43. ARREST DATE

44. ARREST TIME

OFFENSE CHARGED

45. MAJOR CHARGED OFFENSE KEY

CASE AGENT'S NAME AND TELEPHONE

VIOLENCE ALLEGED?

DESCRIPTION OF OFFENSE

RESISTING ARREST?

**BAIL REPORTS AND RECOMMENDATIONS**

**46. PRETRIAL SERVICES OFFICER RECOMMENDATIONS**

D - Detention

F - Financial

N - Non-Financial

X - No Recommendations

**47. AUSA RECOMMENDATIONS**

D - Detention

F - Financial

N - Non-financial

X - No Recommendations

**48. JUDICIAL OFFICER NAME AND CODE (At Initial Hearing)**

**49. TYPE OF REPORT**

A - Prebail with recommendation at initial hearing

B - Prebail without recommendation at initial hearing

C - Post Bail

D - No Report submitted

E - Other

**NOTES:**



BAIL HEARINGS SECTION					
HEARING HELD	DATE	TIME	CONDITIONS IMPOSED		ACTION TAKEN
Initial Hearing	50.	51.	52.	<input type="checkbox"/> 1-2 <input type="checkbox"/> 3-5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 08-10 <input type="checkbox"/> 11-13	53. <input type="checkbox"/>
TYPE OF HEARING	HEARING CODE	DATE	CONDITIONS IMPOSED		ACTION TAKEN
Initial Detention or 1st Review	54.	55.	56.	<input type="checkbox"/> 1-2 <input type="checkbox"/> 3-5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 08-10 <input type="checkbox"/> 11-13	57. <input type="checkbox"/>
HEARING HELD CODES		CONDITIONS IMPOSED CODES		ACTIONS TAKEN CODES	
DH - Detention Hearing BR - Bail Review Hearing RC - Review At Conviction RS - Review At Sentence RA - Review At Appeal RV - Bail Violation Review JO - Judicial Order NO - No Hearing Held		1 - Personal Recognizance 2 - Unsecured Bond 3 - Percentage/Cash Bond 4 - Collateral Bond 5 - Corporate Surety 6 - PSA Supervision 7 - 3rd Party Custody 08 - Restrictive Conditions 09 - Special Conditions (See 65) 10 - Restrictive and Special 11 - Bail Not Set 12 - Preventive Detention 13 - Temporary Detention		A - Release/Bail Made B - Delayed Release/Bail Made C - Detained/Bail Not Made D - Detained/Bail Not Set P - Detained/Preventive Detention (Detention Hearing) E - Detained/Temporary Detention (Initial Hearing) F - Continued/AUSA (Initial Hearing) G - Continued/Counsel (Initial Hearing) H - Det Hearing Held Same Day (Initial Hearing) K - Det Hearing Held Another Day (Initial Hearing) I - Case Dismissed L - Case Transferred Out of District	
<b>58. MOTION FOR DETENTION (Made At Initial Hearing)</b>  <div style="display: flex; justify-content: space-between;"> <div>           A - No Motion            C - Yes, Court         </div> <div>           B - Yes, AUSA            D - Yes, Later Dropped         </div> <div style="text-align: right;"> <input type="checkbox"/> </div> </div>					
<b>59. PRESUMPTION OF DETENTION MADE BY JUDICIAL OFFICER</b>  <div style="display: flex; justify-content: space-between;"> <div>           A - No            B - Yes, violent crime, capital offense or 10 year drug felony while on pretrial release last 5 years.            C - Yes, probable cause to believe defendant committed 10 year drug felony or had 18 USC 924(c) violation.         </div> <div style="text-align: right;"> <input type="checkbox"/> </div> </div>					
<b>60. DETENTION ORDERED AT INITIAL DETENTION HEARING</b>  <div style="display: flex; justify-content: space-between;"> <div>           A - No    B - Yes, flight risk    C - Yes, danger to witness    D - Yes, Danger to Community    E - Yes, flight and danger         </div> <div style="text-align: right;"> <input type="checkbox"/> </div> </div>					
<b>61. TEMPORARY DETENTION IMPOSED BY JUDICIAL OFFICER AT INITIAL HEARING</b>  <div style="display: flex; justify-content: space-between;"> <div>           A. No    B. Yes - defendant on pretrial release for a felony    C. Yes - Defendant on probation or parole            D. Yes - Defendant is an undocumented alien         </div> <div style="text-align: right;"> <input type="checkbox"/> </div> </div>					
<b>PSA SUPERVISION AND SPECIAL CONDITIONS</b>					
<b>62. RELEASED UNDER PSA SUPERVISION</b>  A - At Initial Hearing B - At Initial Detention Hearing <input type="checkbox"/> C - At Bail Review Hearing N - Not Released on PSA Supervision		<b>63. LEVEL OF SUPERVISION IMPOSED</b>  <input type="checkbox"/> H - High <input type="checkbox"/> L - Low <input type="checkbox"/> X - Not Applicable		<b>64. IMPOSED BY</b>  <input type="checkbox"/> C - Court <input type="checkbox"/> P - PSO Discretion	
		<b>66. SUPERVISION DISTRICT</b>  <div style="display: flex; justify-content: center; gap: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div style="display: flex; justify-content: center; gap: 20px;"> <span>CIR</span> <span>DIST</span> </div>			
<div style="display: flex; justify-content: space-between;"> <div> <b>CONTACT LEVEL:</b> <input type="checkbox"/> A - 2 or More Contacts Per Week            B - 1 Contact Per Week            C - 2 Contacts Per Month            D - 1 Contact Per Month            E - Less Than 1 Contact Per Month         </div> <div> <b>CONTACT TYPE</b> <input type="checkbox"/> PERS - In Person            TELE - Telephone         </div> </div>					

CIRCLE ALL CONDITIONS THAT APPLY: (UA - Drug Treatment) (NC-NonContract/C-Contract)

ALCO	ALCOHOL TREATMENT	NC	C	THRD	THIRD-PARTY CUSTODY		
DRUG	DRUG TREATMENT	NC	C	EMPL	EMPLOYMENT		
ASSC	ASSOCIATION			MENH	MENTAL HEALTH	NC	C
COMM	COMMUNITY SERVICE			OTHR	OTHER CONDITIONS		
CTCF	COMMUNITY TRMT CTR (Full-Time)			OTTR	OTHER TREATMENT		
CTCP	COMMUNITY TRMT CTR (Part-Time)			REST	RESTITUTION		
CURF	CURFEW ORDER			REAC	RESTRICT/ABSTAIN ALCOHOL		
CJA	CJA REIMBURSEMENT			PASS	SURRENDER/OBTAIN NO PASSPORT		
EDUC	EDUCATION			TRAV	TRAVEL RESTRICTION		
EMON	ELECTRONIC MONITORING			URIN	URINE SURVEILLANCE	NC	C
EVAL	SUBSTANCE ABUSE EVALUATION			WEAP	WEAPONS RESTRICTIONS		
HOME	HOME CONFINEMENT			SEAR	SEARCH & SEIZURE		
RESI	MAINTAIN RESIDENCE			VICTIM	NO VITM/WITNESS CONTACT		

#### BAIL REVIEW HEARINGS

TYPE OF HEARING	Hearing Held Codes	DATE	Report Made (Y/N)	CONDITIONS IMPOSED	ACTION TAKEN
REVIEW	67.	68.	69.	70. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-2 3-5 6 7 08-10 11-13	71.
REVIEW	72.	73.	74.	75. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-2 3-5 6 7 08-10 11-13	76.
REVIEW	77.	78.	79.	80. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-2 3-5 6 7 08-10 11-13	81.
REVIEW	82.	83.	84.	85. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-2 3-5 6 7 08-10 11-13	86.
REVIEW	87.	88.	89.	90. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-2 3-5 6 7 08-10 11-13	91.

HEARING HELD CODES	CONDITIONS IMPOSED CODES	ACTION TAKEN CODES
DH - Detention Hearing BR - Bail Review Hearing RC - Review At Conviction RS - Review At Sentence RA - Review At Appeal RV - Bail Violation Review JO - Judicial Order NO - No Hearing Held	1 - Personal Recognizance 2 - Unsecured Bond 3 - Percentage/Cash Bond 4 - Collateral Bond 5 - Corporate Surety 6 - PSA Supervision 7 - 3rd Party Custody 08 - Restrictive Conditions 09 - Special Conditions (See 65) 10 - Restrictive and Special 11 - Bail Not Set 12 - Preventive Detention 13 - Temporary Detention	A - Release/Bail Made B - Delayed Release/Bail Made C - Detained/Bail No Made D - Detained/Bail Not Set P - Detained/Preventive Detention

92. VIOLATION COMMITTED (Y/N)

☐

<b>1st VIOLATION</b>	<p>When Occurred: <input type="checkbox"/> Pre-adj <input type="checkbox"/> Pre-Sent <input type="checkbox"/> Pending Appeal/Surrender</p> <p>Rearrest Violations: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: Drugs Viol Weapons</p> <p style="text-align: right;">Involved: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>TECHNICAL VIOLATIONS:</b> (Circle Those That Apply - Refer To Page 9 For Description)</p> <table style="width: 100%; text-align: center;"> <tr> <td>ALCO</td><td>DRUG</td><td>ASSC</td><td>COMM</td><td>CTCF</td><td>CTCP</td><td>CURF</td> </tr> <tr> <td>CJA</td><td>EDUC</td><td>EMON</td><td>EVAL</td><td>HOME</td><td>THRD</td><td>EMPL</td> </tr> <tr> <td>MENH</td><td>OTHR</td><td>OTTR</td><td>REST</td><td>REAC</td><td>PASS</td><td>TRAV</td> </tr> <tr> <td>URIN</td><td>WEAP</td><td></td><td></td><td></td><td></td><td></td> </tr> </table> <p>FTA: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE FTA WARRANT ISSUED: _____ DATE Non-FTA WARRANT ISSUED: _____</p> <p>Report Submitted: <input type="checkbox"/> Yes <input type="checkbox"/> No Date Report Submitted: _____</p> <p><b>PSA RECOMMENDATION</b></p> <p><input type="checkbox"/> REVOCATION <input type="checkbox"/> CONTINUED BOND, CHANGE CONDITIONS <input type="checkbox"/> CONTINUED BOND, NO CHANGES</p> <p>HEARING DATE: _____ HEARING RESULT: <input type="checkbox"/> Detained <input type="checkbox"/> Conditions Changed <input type="checkbox"/> Conditions Continued</p>	ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF	CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL	MENH	OTHR	OTTR	REST	REAC	PASS	TRAV	URIN	WEAP					
ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF																							
CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL																							
MENH	OTHR	OTTR	REST	REAC	PASS	TRAV																							
URIN	WEAP																												
<b>2nd VIOLATION</b>	<p>When Occurred: <input type="checkbox"/> Pre-adj <input type="checkbox"/> Pre-Sent <input type="checkbox"/> Pending Appeal/Surrender</p> <p>Rearrest Violations: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: Drugs Viol Weapons</p> <p style="text-align: right;">Involved: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>TECHNICAL VIOLATIONS:</b> (Circle Those That Apply - Refer To Page 9 For Description)</p> <table style="width: 100%; text-align: center;"> <tr> <td>ALCO</td><td>DRUG</td><td>ASSC</td><td>COMM</td><td>CTCF</td><td>CTCP</td><td>CURF</td> </tr> <tr> <td>CJA</td><td>EDUC</td><td>EMON</td><td>EVAL</td><td>HOME</td><td>THRD</td><td>EMPL</td> </tr> <tr> <td>MENH</td><td>OTHR</td><td>OTTR</td><td>REST</td><td>REAC</td><td>PASS</td><td>TRAV</td> </tr> <tr> <td>URIN</td><td>WEAP</td><td></td><td></td><td></td><td></td><td></td> </tr> </table> <p>FTA: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE FTA WARRANT ISSUED: _____ DATE Non-FTA WARRANT ISSUED: _____</p> <p>Report Submitted: <input type="checkbox"/> Yes <input type="checkbox"/> No Date Report Submitted: _____</p> <p><b>PSA RECOMMENDATION</b></p> <p><input type="checkbox"/> REVOCATION <input type="checkbox"/> CONTINUED BOND, CHANGE CONDITIONS <input type="checkbox"/> CONTINUED BOND, NO CHANGES</p> <p>HEARING DATE: _____ HEARING RESULT: <input type="checkbox"/> Detained <input type="checkbox"/> Conditions Changed <input type="checkbox"/> Conditions Continued</p>	ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF	CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL	MENH	OTHR	OTTR	REST	REAC	PASS	TRAV	URIN	WEAP					
ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF																							
CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL																							
MENH	OTHR	OTTR	REST	REAC	PASS	TRAV																							
URIN	WEAP																												
<b>3rd VIOLATION</b>	<p>When Occurred: <input type="checkbox"/> Pre-adj <input type="checkbox"/> Pre-Sent <input type="checkbox"/> Pending Appeal/Surrender</p> <p>Rearrest Violations: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: Drugs Viol Weapons</p> <p style="text-align: right;">Involved: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>TECHNICAL VIOLATIONS:</b> (Circle Those That Apply - Refer To Page 9 For Description)</p> <table style="width: 100%; text-align: center;"> <tr> <td>ALCO</td><td>DRUG</td><td>ASSC</td><td>COMM</td><td>CTCF</td><td>CTCP</td><td>CURF</td> </tr> <tr> <td>CJA</td><td>EDUC</td><td>EMON</td><td>EVAL</td><td>HOME</td><td>THRD</td><td>EMPL</td> </tr> <tr> <td>MENH</td><td>OTHR</td><td>OTTR</td><td>REST</td><td>REAC</td><td>PASS</td><td>TRAV</td> </tr> <tr> <td>URIN</td><td>WEAP</td><td></td><td></td><td></td><td></td><td></td> </tr> </table> <p>FTA: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE FTA WARRANT ISSUED: _____ DATE Non-FTA WARRANT ISSUED: _____</p> <p>Report Submitted: <input type="checkbox"/> Yes <input type="checkbox"/> No Date Report Submitted: _____</p> <p><b>PSA RECOMMENDATION</b></p> <p><input type="checkbox"/> REVOCATION <input type="checkbox"/> CONTINUED BOND, CHANGE CONDITIONS <input type="checkbox"/> CONTINUED BOND, NO CHANGES</p> <p>HEARING DATE: _____ HEARING RESULT: <input type="checkbox"/> Detained <input type="checkbox"/> Conditions Changed <input type="checkbox"/> Conditions Continued</p>	ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF	CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL	MENH	OTHR	OTTR	REST	REAC	PASS	TRAV	URIN	WEAP					
ALCO	DRUG	ASSC	COMM	CTCF	CTCP	CURF																							
CJA	EDUC	EMON	EVAL	HOME	THRD	EMPL																							
MENH	OTHR	OTTR	REST	REAC	PASS	TRAV																							
URIN	WEAP																												
<b>DISPOSITION SUMMARY</b>																													
<p>109 TERMINATION DATE _____</p> <p>111. MAJOR CONVICTED OFFENSE CODE _____</p>	<p>110. DISPOSITION CODE</p> <table style="width: 100%;"> <tr> <td>D- Dismissed</td> <td>B - Convicted/Fine Only</td> <td rowspan="6" style="text-align: center; vertical-align: middle;"><input type="checkbox"/></td> </tr> <tr> <td>A- Acquitted</td> <td>P - Pretrial Diversion</td> </tr> <tr> <td>C- Convicted</td> <td>E - Escape From Custody</td> </tr> <tr> <td>O- Other</td> <td>F - Fugitive/FTA</td> </tr> <tr> <td>G- Pled Guilty</td> <td>H - Courtesy Supervision Closing</td> </tr> <tr> <td>J- Closed By Transfer</td> <td></td> </tr> </table>	D- Dismissed	B - Convicted/Fine Only	<input type="checkbox"/>	A- Acquitted	P - Pretrial Diversion	C- Convicted	E - Escape From Custody	O- Other	F - Fugitive/FTA	G- Pled Guilty	H - Courtesy Supervision Closing	J- Closed By Transfer																
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## Chapter IV -Tips for the Juvenile Defense Attorney

Defense attorney or representative should meet with the juvenile and family as soon as possible after being appointed.

Interview juvenile and family to obtain a detailed background history: social, education, medical and mental health.

Have release forms available for parent and juvenile to sign for school, medical and mental health records.

Attorney should discuss sentencing options for the juvenile. Attorney should contact someone at the probation or the Federal Public Defender Office for more information.

Follow standard local rules and criminal procedure for discovery. **It should be noted that the juvenile system is abbreviated.**

Review the certification requirements and transfer procedures.

Review the juvenile information or complaint with the juvenile.

Upon receipt of discovery the government, provide juvenile with an opportunity to review and discuss discovery and it's ramifications.

If government seeks to transfer the juvenile to the adult system or status, attorney determine if the transfer would be mandatory or discretionary see 18 U.S.C. § 5032.

Attorney should prepare to oppose transfer at the transfer hearing. The transfer hearing is the most critical point in any juvenile adjudication. The transfer to prosecution as an adult may ultimately result in a longer sentence under harsher conditions.

Counsel should be prepared to present evidence on each of the factors listed under §5032. Experts, including psychological experts, representatives of the local or state juvenile detention facilities, and substance abuse counselors can be extremely useful in addressing the factors in §5032. The emphasis is on the juvenile's prospect for rehabilitation.

**There is a list of Psychologists that are willing to see juvenile's locally.** Please see Chapter VII- d for names. Curriculum Vitae available from the probation office.

If juvenile is not transferred, the juvenile will continue to be treated in the juvenile system. Counsel should then prepare for all aspects of a trial or plea. The judge will sit in a sealed courtroom as the trier of facts.

If Juvenile is transferred to adult status, prepare and educate juvenile and family of the United States Sentencing Guidelines. Counsel should then prepare for all aspects of a trial or plea. The court is open to the public and the trier of facts can be a jury.

Defense attorney, or representative, must accompany the juvenile, if possible, to all interviews (pretrial and probation).

Advise the juvenile that a presentence interview will be conducted within 1 to 2 days of the plea or verdict.

Work with the probation officer to establish the interview date, time, and location.

Upon receipt of the PSR, provide juvenile with a copy (he does not get a copy from probation since all copies are faxed and it is unlikely that juvenile has a fax machine).

Review PSR with juvenile.

Fax or hand deliver objections to USPO and copy opposing counsel with same.

Discuss possible sentencing recommendations with USPO and opposing counsel and try to achieve an agreeable recommendation.

If there is a possibility that the juvenile will be sentenced to detention, review BOP contract facilities manual at the probation office to determine what facility best meets the juvenile's needs. Summaries of these facilities can be found in Chapter VIII-e.

Provide juvenile with a copy of the final PSR.

Prepare for sentencing.

## Chapter V- U.S. Probation Procedure and Sentencing Options

- Upon receipt of the Juvenile Information, USPO should track the progress and determine when plea or trial will take place. (This is done informally and only to aid the P.O. in organizing schedules.)
- Once plea/trial date is set, contact the AUSA/SAUSA and defense attorney and advise them who will do the PSR in the event of adjudication. Advise defense attorney that the interview should take place immediately after the delinquency hearing.
- If a study is ordered, notify the USM of such so they can facilitate the juvenile's transfer for the study. Follow up with USM to make sure transfer is completed.
- Set presentence interview date prior to adjudication to be conducted following the delinquency hearing. Note: Juvenile has the right to have parents or legal guardian as well as his/her attorney present during the interview.
- Contact court officer (USPO) and advise whether juvenile specialist will be present for the delinquency hearing. If not to be present, advise court officer that PSR interview is already set and ask court officer to *remind the court and attorneys that sentencing must occur no later than 20 court days after the delinquency hearing. Provide the 20 day date to the court officer.*
- Request, by fax, offense material from AUSA/SAUSA immediately following the delinquency hearing.
- During PSR interview, in addition to the standard interview questions, special emphasis should be placed on questioning the juvenile's social relationships (with family, peers, and teachers); sports/club/gang affiliations; grades and behavior adjustment at school (include repeated absences, suspensions, expulsions); how does juvenile spend spare time; have them describe a "typical" day for them; does the juvenile have thoughts of suicide, homicide; how does juvenile treat small children and animals - has juvenile caused harm to either.
- Have juvenile sign release forms. If possible, have a parent, guardian, and/or attorney witness the forms. Explain Use of Juvenile Records Notice form to juvenile and parents/guardian. Have juvenile, attorney, parents/guardian sign form. Provide a copy of the form to the juvenile, retain the original for the file.
- If on bond, the juvenile must provide at least one urine sample at time of interview or within 24 hours of interview.
- Fax all requests for verification of information to include the following records: medical, educational, mental health, employment, and financial. Note: Standard collateral letters

must be altered for juveniles to include a request that the responses be *faxed* back to the P.O. as soon as possible. The juvenile's name must also be added to the letter (juvenile names are not on master cards).

- Talk with juvenile's parents, teachers, and guidance counselor to verify social background.
- As soon as possible, discuss guideline calculations with government and defense. Advise them of potential conflicts.
- Confer with government and defense on possible sentencing options. If suitable for probation, ensure juvenile has a place to live. Also, confer with the probation officer likely to get the juvenile for supervision and see if the officer has any recommendations for special conditions. If a custody sentence is likely, see if the government, defense, and the probation office can agree on a facility. Call the facility to see if space will be available. Recommend agreed upon facility to the court. NOTE: BOP makes the designation and may not be able to honor the court's recommendation for placement.
- Disclose 1<sup>st</sup> draft as soon as possible, preferably within 13 *court or business days* of assignment. Reports and letter requesting objections within two and a half days (by noon on due date) are to be **faxed, or hand delivered**, to the government and defense attorneys. Call attorneys to confirm receipt of 1<sup>st</sup> draft. Email a copy of the report to the probation staffing group (if appropriate) and set time for recommendation conference call which should be the same date the report is set for review by supervisor.
- Advise judge of date final is to be delivered to him.
- Objections should be faxed to the probation office by noon of the 15<sup>th</sup> court or business day from assignment. Try to resolve objections during the next day and a half. Make sure each side has been copied with objections by opposing counsel.
- Discuss recommendation with staffing group (if appropriate). Submit final report, addendum, recommendation, and court cover letter to supervisor for review. This should be e-mailed to supervisor at least 4 calendar days before final is mailed to court.
- E-mail final to courthouse for hand delivery to judge at least 2 court days before sentencing. Fax final to government and defense at this time. Call to confirm receipt.
- Communicate with judge's chambers to determine if PSR writer's presence is required at sentencing. If not, make sure court officer is comfortable covering sentencing.
- If detention is imposed, probation clerk will forward two copies of PSR and addendum to BOP immediately following sentencing.
- If probation is imposed, probation clerk forwards file to juvenile's probation officer.
- Review Juvenile J&C upon receipt. Make corrections as necessary.

### Juvenile Sentencing Options

Pursuant to 18 U.S.C § 5037(a), the court may:

(1) suspend the findings of juvenile delinquency; (2) enter an order of restitution pursuant to 18 U.S.C. § 3556; (3) place the juvenile on probation; *or* (4) commit the juvenile to official detention.

If **PROBATION** is imposed the term is determined as follows:

- For a juvenile less than 18 years old not beyond the lesser of:

the date the juvenile becomes 21 years of age (18 U.S.C. § 5037(b)(1)(A)),

OR

the maximum term that would be authorized if the juvenile had been tried and convicted as an adult\* (18 U.S.C. § 5037(b)(1)(B))

- For a juvenile who is between 18 and 21 years old not beyond the lesser of:

3 years (18 U.S.C § 5037(b)(2)(A),

OR

the maximum term that would have been authorized had the juvenile been tried and convicted as an adult\* (18 U.S.C § 5037(b)(2)(B))

\* Probation terms for adults are set forth in 18 U.S.C. § 3561(c).

Note: Conditions of probation are set forth in 18 U.S.C. §§ 3563, 3564, and 3565; All sections apply to juvenile probation sentences. Pursuant to these conditions, restitution *may* be ordered as a condition of probation. It is the position of General Counsel and the ENC Probation Office that the Mandatory Restitution Act does not apply to juveniles.

If official detention is imposed the term is determined as follows:

- For a juvenile less than 18 years old not beyond the lesser of:

the date the juvenile becomes 21 years of age (18 U.S.C. § 5037(c)(1)(A)),

OR

the maximum term that would be authorized if the juvenile had been tried and convicted as an adult\*\* (18 U.S.C. § 5037(c)(1)(B))



- For a juvenile who is between 18 and 21 years old not beyond the lesser of:

who if convicted as an adult would have been convicted of a Class A, B, or C felony, beyond 5 years (18 U.S.C § 5037(c)(2)(A),

OR

- In any other case beyond the lesser of:

3 years (18 U.S.C. § 5037(c)(2)(B)(i),

OR

the maximum term that would have been authorized had the juvenile been tried and convicted as an adult\*\* (18 U.S.C § 5037(c)(2)(B)(ii))

\*\*You must calculate the sentencing guidelines that would have been applicable for a similarly situated adult (United States v. R.L.C., 503 U.S. 291 (1992)). These calculations are to be noted in paragraph form in Part E of the presentence report.

Note: There are no provisions for supervised release in juvenile cases.

Restitution cannot be ordered in detention cases.

Special assessments are not applicable in juvenile cases.

Fines may be imposed only as a condition of supervision based on the juvenile's ability to pay, pursuant to 18 U.S.C. § 3563(b)(22).

### Juvenile Violation Process

The following situations may warrant initiation of probation revocation proceedings: (1) the juvenile has been convicted on a new serious violation of federal, state, or local laws; (2) the juvenile has been charged with a crime committed after the imposition of probation; or (3) the juvenile is unable or unwilling to comply with the terms of probation based on serious and repeated technical violations.

- If the juvenile commits a violation, prepare a Motion for Revocation.
- Upon SUSPO approval, forward transmittal memo to Clerk of Court, indicating whether or not a revocation hearing date should be scheduled. Enclose original Motion for Revocation, form CJA23/Warrant, as applicable. (In lieu of a warrant, may request the Clerk to issue a summons (must have CJA23)).
- If the juvenile is in state custody and a Writ will be prepared by the AUSA/SAUSA, note same in the memo to the Clerk to allow sufficient time (2 weeks) for issuance.

- Ten (10) days prior to the scheduled hearing, prepare a memo confirming hearing to the sentencing judge and include a copy of the Motion for Revocation and the original violation worksheets and recommendation. Include a copy of the PSR for any case for which jurisdiction was transferred *in*. Forward a copy of the memo, Motion for Revocation, and worksheets to the juvenile, the juvenile's attorney, and the AUSA/SAUSA.
- Following the hearing, prepare a judgment (supervision revoked), order (supervision continued/extended/modified), or order continuing the revocation hearing.
- Following SUSPO approval of the judgment/order, forward it to the sentencing judge for signature.

### **Fingerprinting and Photographing Juveniles**

Pursuant to 18 U.S.C. § 5038(d), whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or a controlled substance offense, the juvenile *shall* be fingerprinted and photographed. The fingerprints and photograph remain in the juvenile's file under seal to be opened and made available *only* under the conditions set forth in 18 U.S.C. § 5038(a)(1)-(6). **Note:** Do not insert the juvenile's photograph into the Presentence Report.

The exception to this rule is found at 18 U.S.C. § 5038(f) which states: if the juvenile has on *two separate occasions* been found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or a controlled substance offense, or if the juvenile has been found guilty of committing an act after his 13<sup>th</sup> birthday which if committed by an adult would be a controlled substance offense or distribution of firearms offense, the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudications, including name, date of adjudication, court, offense, and sentence, along with the notation that the matters were juvenile adjudications.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
U.S. Probation Office

**USE OF JUVENILE RECORDS NOTICE**

I have been advised and understand that, pursuant to 18 U.S.C. § 5038(b), all records throughout and upon the completion of the juvenile delinquency proceeding in my case shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances:

1. Inquiries received from another court of law;
2. Inquiries from an agency preparing a presentence report for another court;
3. Inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;
4. Inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;
5. Inquiries from an agency considering the person for a position immediately and directly affecting the national security; and
6. Inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with 18 U.S.C. § 5037.

Unless otherwise permitted by law, any information about me may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. **This is not a waiver of constitutional rights.**

SIGNED: \_\_\_\_\_  
Juvenile

DATE: \_\_\_\_\_

WITNESS: \_\_\_\_\_  
U.S. Probation Officer

DATE: \_\_\_\_\_

ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_

PARENT/  
GUARDIAN: \_\_\_\_\_

DATE: \_\_\_\_\_

---

Parent or Guardian provided a copy of notification:

In person: \_\_\_\_\_

By mail: \_\_\_\_\_

Unavailable: \_\_\_\_\_

EASTERN DISTRICT OF NORTH CAROLINA  
U.S. Probation Office

**PROTOCOL  
TO IMPLEMENT NOTIFICATION TO  
A JUVENILE DELINQUENT  
REGARDING USE OF THE JUVENILE'S RECORD**

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Pursuant to 18 U.S.C. § 5038(b), the U.S. District Court must advise the juvenile, and his/her parents or guardians, **in writing**, how the juvenile record may be disclosed in the future. Attached is the form designed for the purpose of facilitating this advisement, and to document such notification.

This form is to be completed by the U.S. Probation Officer conducting the presentence investigation during the presentence interview. A copy of the form is to be provided to the juvenile. In the event the juvenile is sentenced immediately, the supervision officer will then provide the notification, i.e., in cases involving misdemeanors or petty offenses.

UNITED STATES DISTRICT COURTS DEFENDANT WORKSHEET Eastern District of North Carolina		DOCKET NUMBER (1-4)	Circuit	District	Office	Year	Mag. #		
		Dis. Crt. #							
9. COURT NAME (Last, First, Middle)		5. INTERVIEW STATUS <input type="checkbox"/> A. Interviewed <input type="checkbox"/> B. Refused Interview <input type="checkbox"/> C. Not Interviewed <input type="checkbox"/> D. Not Applicable		6. INTERVIEW DATE		8. INTERVIEW OFFICER		FACTS NO.:	
				7. INTERVIEW TIME		ASSIGNED PSO		ASSIGNED USPO:	
TRUE NAME:		10. REFERRAL ACTION <input type="checkbox"/> A. Arrest <input type="checkbox"/> B. Non-Arrest <input type="checkbox"/> X. Not Applicable		11. TYPE OF CASE **See 12 if Rule 40 <input type="checkbox"/> A-Complaint <input type="checkbox"/> F-Superseding <input type="checkbox"/> B-Indict/Info <input type="checkbox"/> G-Collateral <input type="checkbox"/> C-Material Witness <input type="checkbox"/> H-PSA Courtesy <input type="checkbox"/> E-Other <input type="checkbox"/> T-Transfer In					
AKA:									
MAIDEN NAME:		12. Rule 20/40 Transfer Y-Yes / IN OUT N-No		12A. Transfer Date		13. Receive/Close District			
		14. SEX		15. DOB		AGE		DRIVER'S LICENSE NO.	
USM REG. #: _____ FBI #: _____ STATE #: _____ OTHER #: _____ OTHER #: _____		HEIGHT		WEIGHT		EYES			HAIR
		20. RESIDENTIAL STATUS <input type="checkbox"/> A. Own/Buying <input type="checkbox"/> D. No Place to Live <input type="checkbox"/> B. Renting <input type="checkbox"/> O. Other <input type="checkbox"/> C. No Contribution <input type="checkbox"/> X. Unknown		16. SOCIAL SECURITY NO.		SCARS/TATTOOS			
17. RACE <input type="checkbox"/> W-White <input type="checkbox"/> B-Black <input type="checkbox"/> I-American Indian or Alaskan Native <input type="checkbox"/> A-Asian/Pacific Islander <input type="checkbox"/> U-Unknown				18. TIME IN AREA <input type="checkbox"/> Months		19. CITIZENSHIP <input type="checkbox"/> A. U.S. Citizen <input type="checkbox"/> B. Legal Alien <input type="checkbox"/> C. Illegal Alien <input type="checkbox"/> X. Unknown			
		17A. HISPANIC ORIGIN <input type="checkbox"/> HH - Hispanic <input type="checkbox"/> NN - Not Hispanic <input type="checkbox"/> XX - Unknown		Citizen of:					
PRESENT ADDRESS (Including Apt. #)  County: _____ PHONE: Home _____ Work _____		ALIEN NO.		ENTERED U.S.			PASSPORTS/VISAS		
		Ever Lived Outside of State/Country?							
HOW LONG AT THIS ADDRESS?		Does the Defendant Travel Outside of U.S.? (If yes where) <input type="checkbox"/> Yes <input type="checkbox"/> No							
OTHER OCCUPANTS OF RESIDENCE:		AUSA:			DEFENSE COUNSEL (Name, Address, Phone)				
		MAILING ADDRESS (IF DETAINED - PREVIOUS ADDRESS):							
DIRECTIONS TO RESIDENCE:		ARE THERE ANY SAFETY CONCERNS WITHIN THE HOME OR NEIGHBORHOOD (i.e. Agressive dogs (dangerous pets))							
		PRIOR ADDRESS (Street, City, State, Dates)							
CONTACT PERSON AT RESIDENCE (Work Phone If Needed)		PRIOR ADDRESS (Street, City, State, Dates)							

**PARENTS/SIBLINGS/FRIENDS**

(List the defendant's biological parents. If defendant was reared by persons other than his natural parents, add the surrogate parent's names immediately below the space allocated to Mother and Father. After the parents, list all siblings, living or dead, and friends who would serve as surety.)

NAME	RELATIONSHIP AND AGE	PRESENT ADDRESS AND TELEPHONE NUMBER	OCCUPATION	SURETY (Y) or (N)
Current Name: Maiden Name:	Mother			
	Father			

Notes regarding family history; identify any significant problems:

*(Use Back If Needed)*

**MARITAL STATUS, PREVIOUS MARRIAGES, INCLUDING COHABITATION**

**21. MARITAL STATUS**

M-Married

S-Single

C-Cohabiting

D-Divorced

P-Separated

W-Widowed

X-Unknown

☐

DOES SPOUSE KNOW ABOUT ARREST?

MAY OFFICER CALL SPOUSE?

LENGTH OF STATUS:

NUMBER OF DEPENDENTS:

LIVE WITH SPOUSE?

Spouse or Domestic Partner Include Maiden Name	Date of Marriage	Place of Marriage	Present Status of Marriage	Date of Separation	Date of Divorce	Court Where Divorce Was Granted	Number Of Children

**CHILDREN**

☐ THE DEFENDANT HAS NEVER HAD ANY CHILDREN.

CHILD'S NAME	NAME OF OTHER PARENT	AGE	CUSTODY/ SUPPORT	CHILD'S ADDRESS AND TELEPHONE (If different from defendant)

Note health problems, criminal history, substance abuse or any other significant information.

PRESENT EMPLOYMENT INFORMATION																			
<b>22. EMPLOYMENT</b>  <input type="checkbox"/> Y-YES <input type="checkbox"/> N-NO <input type="checkbox"/> X-UNKNOWN		<b>HOW LONG EMPLOYED/UNEMPLOYED?</b>		<b>IF UNEMPLOYED DOES DEFENDANT HAVE A VIABLE MEANS OF SUPPORT?</b>  <input type="checkbox"/> Y-YES <input type="checkbox"/> N-NO															
<b>NAME AND ADDRESS OF EMPLOYER</b>			<b>DESCRIBE SOURCE &amp; PAYMENT METHOD</b>																
<b>TIME AT PRESENT JOB (Months)</b>			<b>AMOUNT OF MONTHLY SUPPORT</b>																
<b>OCCUPATION/TITLE</b>	<b>HOURS/WEEK</b>	<b>STATUS (Full/Part Time/Self-Employed)</b>	<b>SPECIAL SKILLS/TRAINING</b>																
<b>MONTHLY GROSS</b>	<b>MONTHLY NET</b>	<b>SUPERVISOR/TITLE/TELEPHONE NO.</b>																	
<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">DOES EMPLOYER KNOW ABOUT ARREST?</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%;">YES</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%;">NO</td> </tr> <tr> <td>CAN EMPLOYER BE CONTACTED?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>YES</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>NO</td> </tr> <tr> <td>CAN DEFENDANT RETURN TO JOB?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>YES</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>NO</td> </tr> </table>					DOES EMPLOYER KNOW ABOUT ARREST?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	CAN EMPLOYER BE CONTACTED?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	CAN DEFENDANT RETURN TO JOB?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
DOES EMPLOYER KNOW ABOUT ARREST?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO															
CAN EMPLOYER BE CONTACTED?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO															
CAN DEFENDANT RETURN TO JOB?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO															
PREVIOUS EMPLOYMENT (Describe Defendant's Employment History for the Last 10 Years)																			
DATES	NAME AND ADDRESS OF EMPLOYER	NATURE OF WORK, WEEKLY WAGES, REASON FOR LEAVING																	
FROM:																			
TO:																			
FROM:																			
TO:																			
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<b>SUMMARIZE ANY EMPLOYMENT HISTORY OVER TEN YEARS OLD:</b>																			

☐

None

## MILITARY SERVICE

BRANCH OF SERVICE:	SERVICE NUMBER:	ENTERED:	DISCHARGED:	TYPE OF DISCHARGE:
HIGHEST RANK:	RANK AT SEPARATION:	DECORATIONS/AWARDS:		VA CLAIM NUMBER:

Summarize the defendant's military service. Describe any Court Martial or non-judicial punishments. Describe any foreign or combat service. Describe any special training or skills in the service. Describe previous VA claims.

## 23. EDUCATION:

HIGHEST GRADE ACHIEVED \_\_\_\_\_

EL - ELEMENTARY  
SC - SOME COLLEGE  
GE - G.E.D  
XX - UNKNOWN

HS - HIGH SCHOOL GRAD  
VC - VOCATIONAL SCHOOL  
PG - POST GRAD

SH - SOME HIGH SCHOOL  
CG - COLLEGE GRAD  
NL - NO EDUCATION

☐

## SCHOLASTIC HISTORY

NAME AND LOCATION OF SCHOOL (List most recent school first)	Dates Attended	Degree, Diploma or Certificate Received

Does the defendant have any specialized training or skill(s)?

YES

NO

If yes, what training or skill(s)?

---

---

---

Does the defendant have any professional license(s)?

YES

NO

If yes, what license(s)?

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---

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**HEALTH****PHYSICAL HEALTH (Name of Doctor), health problems, present treatment and medication****DRUG/ALCOHOL ABUSE**

(Age use began, frequency, last use, cost, type of drug past and present treatment.

**24. SUBSTANCE ABUSE (within last 2 years)**☐☐☐**N - No Substance Abuse****F - Marijuana****X - Unknown****I - Alcohol****A - Heroin****J - Other Illegal Substances****C - Cocaine****Crack****D - Barbituates****Hallucinogens****E - Amphetamines****Inhalants****Steroids****MENTAL AND EMOTIONAL HEALTH**

The defendant has no history of mental or emotional problems, and no history of treatment for such.

**Name and address of Doctor or Counselor; and Condition under treatment.****25. DEFENDANT presently undergoing psychiatric treatment**☐**Y - YES N - NO X - UNKNOWN****Defendant Presently on Medication?****History of Psychiatric Care?****Other Mental Health Treatment?****FINANCIAL INFORMATION****LIST FINANCIAL ASSETS****CASH ON HAND****SAVINGS ACCT(S) (Where?)** \$**CHECKING ACCT(S) (Where?)** \$**STOCKS/BONDS** \$**IRA's** \$**(NOTE OTHER ACCOUNTS BELOW)****AUTOS:****Make** **Model** **YR** \$**Make** **Model** **YR** \$**(NOTE OTHER AUTOS BELOW)****REAL ESTATE****Description (Include Address)****DOWN PAYMENT** \$**ASSESSED VALUE** \$**MARKET VALUE** \$**EQUITY** \$**(NOTE OTHER REAL ESTATE BELOW)****LIST FINANCIAL LIABILITIES****MORTGAGE****NAME OF BANK OR MORTGAGE COMPANY****ORIGINAL LOAN** \$**PRESENT BALANCE** \$**MONTHLY PAYMENTS** \$**(NOTE OTHER MORTGAGES BELOW:)** \$**OUTSTANDING LOAN APPLICATIONS?** \$**PERSONAL LOANS****NAME OF LENDER****ORIGINAL LOAN** \$**PURPOSE OF LOAN****PRESENT BALANCE** \$**MONTHLY PAYMENT** \$**(NOTE OTHER LOANS ON BACK)****CREDIT CARDS**

\$

\$

\$

\$

**ALIMONY**

\$

**CHILD SUPPORT**

\$

**COURT ORDERED OR VOLUNTARY?****MEDICAL BILLS**

\$

**COURT FINES OR RESTITUTION**

\$

PERSONAL PROPERTY (jewelry, collections, etc.) \$ _____  LIFE INSURANCE (Surrender Value) \$ _____  OTHER ASSETS - INCOME SOURCE \$ _____  SPOUSE INCOME \$ _____  SPOUSE OCCUPATION _____  _____	INSURANCE PREMIUMS \$ _____  RENT \$ _____  LEASE - WHOSE NAME _____  UTILITIES \$ _____  WHOSE NAME _____  OTHER DEBTS OR MONTHLY EXPENSES _____  _____  EVER FILED FOR BANKRUPTCY?      YES      NO
---	---

ADDITIONAL DATA:

**CRIMINAL HISTORY**

Unofficial Version Of Prior Record (List below all arrests and whether convicted, including juvenile adjudication)

DATE OF ARREST	AGE	OFFENSE CHARGED	M OR F	COURT	DISPOSITION DATE, DISPOSITION OR NEXT COURT DATE	ATTORNEY Y/N

NO DETAINERS	DETAINERS
--------------	-----------

AGENCY OR COURT

Defendant presently on PROBATION? YES                      NO	WHERE?      Parole/Probation Officer's Name and Address
Defendant presently on PAROLE? YES                      NO	

**ACCEPTANCE OF RESPONSIBILITY**

☐ Declined to discuss. Will provide on or before \_\_\_\_\_.

Defendant's statement regarding offense:

Extraordinary Circumstances:

## **PRESENTENCE SUBSTANCE ABUSE ASSESSMENT QUESTIONNAIRE**

Attach to PROB Form 1

1. What, if any, drugs have you used? (If answer is none, go to question 10.)
  
2. When did you first use (name specific drug)?
  
3. When did you last use (name specific drug)?
  
4. During your highest level of use, what was the most you used (name specific drug)? (Daily, Weekly, times/wk) How long did you use at that level? How much did it cost you per week.
  
5. Have you ever attempted to stop using (name specific drug) and been successful? If yes, how were you able to stop? What was the longest period you were drug free? Have you ever experienced any withdrawal symptoms?
  
6. Are you now addicted to (name specific drug)? Have you ever been addicted to (name specific drug)?
  
7. Do you think your drug use has ever caused any serious problems such as relationships with family members, (parents, siblings, spouse, children), friends, employers, or law enforcement?

PRESENTENCE SUBSTANCE ABUSE ASSESSMENT QUESTIONNAIRE – Page 2

If you abuse multiple substances, including prescription drugs, alcohol, etc., repeat questions 1-7 for each drug identified.

8. Have you ever received any treatment for your drug abuse?

Prog./Agency	Inp. =I/Out=0	Dates/Year	Length of Tx	Treatment succ./Time clean

9. Are you presently or have you ever participated in AA or NA? If yes, describe attendance.

10. Do any family members have a drug/alcohol/problem? (Include significant others, parents, siblings, boyfriend, girlfriend)



# UNITED STATES PROBATION OFFICE

EASTERN DISTRICT OF NORTH CAROLINA

Charles S. Massey  
Chief U.S. Probation Officer

## AUTHORIZATION FOR RELEASE OF AND REQUEST FOR CONFIDENTIAL OR PRIVILEGED INFORMATION

This document is to serve as my request for information as provided by the FREEDOM OF INFORMATION ACT and as my release of information as required by the PRIVACY ACT OF 1974.

This signed document, or copy, authorizes the United States Probation Office to obtain information and records, general or specified, necessary for investigation/supervision, from ANY SOURCES, including ALL PRIVATE, CHURCH, MEDICAL AND MENTAL INSTITUTIONS, ALCOHOL or DRUG TREATMENT FACILITIES, and ALL GOVERNMENT, COURT, MILITARY, LAW ENFORCEMENT, SCHOOL, EMPLOYMENT, BANK/FINANCIAL SOURCES, to include CREDIT INFORMATION SERVICE, and the SOCIAL SECURITY ADMINISTRATION (including, but not limited to detailed earnings history).

This document releases all participants from liability in the release or production of information relating to me when furnished to the United States Probation Office.

This document, or copy, will remain in force until \_\_\_\_\_, unless revoked earlier by me.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Requester's Signature

\_\_\_\_\_  
Requester's SSN

\_\_\_\_\_  
Requester's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Date

\_\_\_\_\_  
Probation Officer's Signature

\_\_\_\_\_  
Signature of Parent/Guardian

\_\_\_\_\_  
Signature of Attorney

### NOTICE

This release and request form is approved for official use by the United States Probation Office by authority of The Honorable Terrence W. Boyle, Chief U.S. District Court Judge for the Eastern District of North Carolina. *The information requested by the U.S. Probation Office is needed for the discharge of its duties to the Court.*



# UNITED STATES PROBATION OFFICE

EASTERN DISTRICT OF NORTH CAROLINA

Charles S. Massey  
Chief U.S. Probation Officer

## AUTHORIZATION FORM

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_,  
\_\_\_\_\_

SSN: \_\_\_\_\_

DOB: \_\_\_\_\_

I do hereby authorize the Internal Revenue Service to release copies of all information concerning my income tax return(s) for the last five year(s), to \_\_\_\_\_ U.S. Probation Officer for the Eastern District of North Carolina.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent/Guardian

\_\_\_\_\_  
Signature of Attorney

1, 2,

Date \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

**UNITED STATES OF AMERICA**

**vs.**

**JUVENILE MALE**

)  
)  
)  
)  
)

**PRESENTENCE INVESTIGATION  
REPORT**

**Docket No. 2:99CR**

---

**Prepared For:**

The Honorable Terrence W. Boyle  
Chief U.S. District Judge

**Prepared By:**

Donna R. Wilmot  
U.S. Probation Officer  
Raleigh, NC  
(919) 856-4663 ext. 124

**Assistant U.S. Attorney:**

Thomas B. Murphy  
310 New Bern Ave., Suite 800  
Raleigh, NC 27601-1461  
(919) 856-4530

**Defense Counsel:**

Chris A. Cordes  
Greenville Federal Courthouse, Suite 153  
Greenville, NC 27835  
(252) 830-2620

**Sentence Date:**

March 1, 2000

**Offense:**     Count 1

Juvenile Delinquency  
18 U.S.C. § 5032

Count 2

Juvenile Delinquency  
18 U.S.C. § 5032

**Adjudication:**

Admission of delinquency entered on February 8, 2000, pursuant to a written plea agreement.

**Release Status:**

**Detainers:**

None Known



**Codefendants:** None

**Related Cases:**

**Identifying Data:**

**Date of Birth:**

**Age:**

**Race:**

**Sex:** Male

**SSN:**

**FBI #:**

**USM #:**

**SID #:**

**Other ID #:**

**Education:**

**Dependents:**

**Citizenship:**

**Legal Address:**

**Aliases:** None Known

**Date First Draft Prepared:** February 24, 2000

**Date Report Revised:** February 28, 2000

## **PART A. THE OFFENSE**

### **Charge(s) and Conviction(s)**

1. **JUVENILE MALE (initials here)** was named in a Two-Count Juvenile Information which was filed in the Eastern District of North Carolina on November 30, 1999. Count 1 charges **(initials here)** with Armed Bank Robbery and Aiding and Abetting, in violation of 18 U.S.C. § 2113(a), (d) and 2, if he had been an adult. Count 2 charges **(initials here)** with Use and Carry a Firearm During a Crime of Violence and Aiding And Abetting, in violation of 18 U.S.C. § 924(c) and 2, if he had been an adult. The foregoing are acts of Juvenile Delinquency in violation of 18 U.S.C. § 5032.
2. On February 8, 2000, **(initials here)** **admitted delinquency to Counts 1 and 2 which involved offense behavior that occurred on or about August 5, 1999.** Pursuant to the terms of the written plea agreement **(initials here)** waived his appeal rights, reserving only the right to appeal based upon grounds of ineffective assistance of counsel and prosecutorial misconduct not known to him at the time of his guilty plea. **(initials here)** agreed to cooperate with the government by providing truthful information and testimony if required to do so. The government reserved the right to make a sentencing recommendation and to recommend imposition of restitution.
3. **(initials here)** has complied with the conditions of his release.

### **Related Cases**

4.

### **The Offense Conduct**

5. From here on out, it is acceptable to use the juvenile's initials only (no need to say Juvenile Male/Female).

### **Victim Impact**

6.

## **PART B. DEFENDANT'S CRIMINAL HISTORY**

### **Juvenile Adjudication(s)**

7. None known.

### **Criminal Conviction(s)**

**Date of  
Arrest**

**Conviction/  
Court**

**Date Sentence  
Imposed/Disposition**

8.

### **Other Criminal Conduct**

9.

### **Pending Charges**

10. None known.

### **Other Arrests**

11. None known.

## **PART C. OFFENDER CHARACTERISTICS**

### **Personal and Family Data**

12.

### **Physical Condition**

13.

### **Mental and Emotional Health**

14.

### **Substance Abuse**

15.

16.

### **Education and Vocational Skills**

17.

### **Employment**

18.

### **Financial Condition: Ability to Pay**

19. A juvenile's ability to pay a fine or restitution is based on his/her own ability to pay and does not consider the income of his/her parents. However, if the juvenile is totally dependant upon his parents and he/she works, the juvenile's income can be considered for payment of a fine or restitution.

## **PART D. GUIDELINE COMPUTATIONS**

20. Pursuant to 1B1.12, the Sentencing Guidelines do not apply to anyone sentenced under the Federal Juvenile Delinquency Act (18 U.S.C. 5031 through 5042). However, the sentence imposed upon a juvenile delinquent may not exceed the maximum of the guideline range applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor sufficient to warrant an upward departure from the guideline range, United States v. R.L.C. 112 S.Ct. 1329 (1992).

## **PART E. SENTENCING OPTIONS**

### **Custody**

#### **Counts 1 and 2**

21. The maximum term of official detention is until **(initials here)** 21<sup>st</sup> birthday (46 months), pursuant to 18 U.S.C. § 5037(c)(1)(A). Were this juvenile sentenced as an adult, the guideline imprisonment range would be 37 to 46 months (Count 1), followed by 60 months based on a conviction pursuant to 18 U.S.C. § 924(c) (Count 2). [The base offense level for Bank Robbery is 20. Because property of a financial institution was taken, 2 levels are added pursuant to 2B3.1(b)(1). The loss to the bank is \$14,983.34, therefore, 1 level is added pursuant to 2B3.1(b)(7). The combined offense level is 23, minus 3 for acceptance of responsibility. Based on previous convictions, the criminal history category is II, resulting in a total offense level of 20, and a guideline imprisonment range of 37 to 46 months, plus a 60 month consecutive sentence.]\*\*

**OR**

22. The maximum term of official detention is 6 months, pursuant to 18 U.S.C. § 5037(c)(2)(B)(ii). Were this juvenile sentenced as an adult, the guideline imprisonment range would be 0 to 6 months. [The base offense level for Theft is 4, pursuant to 2B1.1(a). The loss is \$1,189, therefore, 2 levels are added pursuant to 2B1.1(b)(1)(C). The combined offense level is 6, minus 2 for acceptance of responsibility. Based on previous convictions, the criminal history category is II, resulting in a total offense level of 4, and a guideline imprisonment range of 0 to 6 months.]\*\*

### **Probation**

#### **Counts 1 and 2**

23. The maximum term of probation is up to **(initials here)** 21<sup>st</sup> birthday (46 months), pursuant to 18 U.S.C. § 5037(b)(2)(A).\*\*

**OR**

24. The maximum term of probation is 3 years, pursuant to 18 U.S.C. § 5037(b)(2)(A) or (B).\*\*

### **Fines**

25. A fine not to exceed \$100,000 may be imposed as a condition of probation, pursuant to 18 U.S.C. § 5037

and 3563.\*\*

**OR**

Counts 1 and 2

26. A fine not to exceed \$250,000 per count may be imposed as a condition of probation, pursuant to 18 U.S.C. § 5037 and 3563.\*\*

**\*\* Sample language - this will change based on individual case**

**Restitution**

Counts 1 and 2

27. Pursuant to 18 U.S.C. §§ 5037 and 3556, restitution may be ordered as a condition of probation. Restitution in the amount of \$14,983.34 is owed to Centura Bank.

Respectfully submitted,

---

U.S. Probation Officer

**SENTENCING RECOMMENDATION**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
UNITED STATES v. JUVENILE MALE  
DOCKET NO.**

	<u>Statutory Provisions</u>	<u>Recommended Sentence</u>
<b>CUSTODY:</b>	<u>Counts 1 and 2</u> Until age 21 (46 months)	
<b>PROBATION:</b>	<u>Counts 1 and 2</u> Until age 21 (46 months)	
<b>FINE:</b>	<u>Counts 1 and 2</u> Up to \$250,000	
<b>RESTITUTION:</b>	<u>Counts 1 and 2</u> \$14,983.34	

Justification

Voluntary Surrender

Pursuant to 18 U.S.C. § 3143, detention is required unless the court finds that there are exceptional circumstances why detention would not be appropriate. Barring such a finding, voluntary surrender appears to be inappropriate.

Recommendation

Except as heretofore stated, the court FINDS the bases for the findings contained in the Presentence Report credible and reliable, and therefore, the court ADOPTS those findings.

**NOTE:** Pursuant to Rule 32(c)(3)(E), the court must address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.

It is respectfully recommended that sentence be imposed as follows:

**IT IS ADJUDGED** that the defendant, **juvenile's full name must appear here**, is a juvenile delinquent. Disposition is made under 18 U.S.C. § 5037, as amended effective November 1, 1987.

**IT IS THE JUDGMENT OF THE COURT** that **juvenile's full name must appear here** is hereby committed to official detention in the custody of the Attorney General of the United States for a term of 24 months. This term consists of terms of 24 months on each of Counts 1 and 2, all such terms to run concurrently.

The Court recommends placement at the Glen Mills School in Concordville, Pennsylvania.

The Court declines to impose restitution or a fine because official detention has been imposed and the defendant has no ability to pay.

Respectfully submitted,

---

Donna R. Wilmot  
U.S. Probation Officer

Reviewed and Approved:

---

LaRue Baker Hall  
Supervising U.S. Probation Officer

## **VIOLATION REPORT**

NAME: Juvenile Male

DOCKET NO.: 7:99MG

**ORIGINAL OFFENSE:** 21 U.S.C. § 842, Possession of Marijuana

**JUDGE:** Honorable William Norton Mason

**EXPIRATION DATE:** 10/17/2002

**NATURE OF VIOLATION(S) AND OFFICER'S EVIDENCE:**

On April 17, 2000, through random urinalysis, the juvenile tested positive for marijuana. When confronted, he admitted to using this substance.

**PREVIOUS VIOLATIONS REPORTED TO COURT:**

No previous violations reported.

**ACTION RECOMMENDED BY OFFICER:**

The probation officer is recommending that this violation be held in abeyance and the juvenile's supervision continued. He is currently subject to drug testing and treatment as a special condition of supervision. We have placed him in a more intensive phase of urinalysis and referred him to our contract vendor for outpatient substance abuse counseling. The juvenile has been warned that any further violations of supervision may result in more punitive sanctions or a return to court for revocation proceedings.

\_\_\_\_\_  
**DATE**

**U.S. Probation Officer**  
Address and phone#

\_\_\_\_\_  
**DATE**

**Officer-In-Charge**

---

**DECISION OF JUDGE:**

\_\_\_\_\_ Agree with officer's recommendation

\_\_\_\_\_ Take following action:

\_\_\_\_\_  
**U.S. Magistrate Judge**

\_\_\_\_\_  
**DATE**



**UNITED STATES DISTRICT COURT**  
**for**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
**SOUTHER DIVISION**

**U.S.A. vs. Juvenile Male (initials here)**

**Docket No. 2:CR-000**

**Petition for Action on Probation**

COMES NOW Donna R. Wilmot, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Juvenile Male (initials here), who, upon a plea of guilty to 18 U.S.C. § 5032, Juvenile Delinquency, was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, sitting in the court at Raleigh, North Carolina on May 12, 1999, to a sixty month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall perform 100 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$100 fee.
2. The defendant shall pay restitution in the amount of \$500 to be paid jointly and severally by the defendant and his co-defendant.
3. The defendant shall attend school until completion of the 12<sup>th</sup> grade.
4. The defendant shall not possess or consume any alcohol and shall submit to drug testing if requested to do so by the probation officer.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR  
CAUSE AS FOLLOWS:**

On September 10, 1999, Juvenile Male (initials) broke into and entered the concession stand located behind Smith Elementary School in Garner, North Carolina. Approximately \$50 worth of items including candy and soda was stolen. Juvenile Male admitted to breaking into the concession stand and stealing a box of candy bars and some sodas.

Juvenile Male lives at home with his parents and is a full time student. We believe that a modification to include home confinement will address the violation before the Court and minimize the opportunity for the juvenile to leave his residence for any further delinquent activity.

The juvenile and his mother have signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER** that probation be modified as follows:

1. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 60 consecutive days. At the direction of the probation officer you shall wear an electronic monitoring device and follow electronic monitoring procedures specified by your probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Respectfully,

---

U.S. Probation Officer  
Address and phone #  
Date: May 8, 2001

### **ORDER OF COURT**

Considered and ordered this \_\_\_\_\_  
day of \_\_\_\_\_, 200\_\_\_\_,  
and ordered filed and made a part of the  
records in the above case.

---

James C. Fox  
Senior U.S. District Judge

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
Souther Division  
Docket No. 0:CR-000**

**United States Of America**

**vs.**

**Juvenile Male (initials here)**

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)  
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**JUDGMENT**

On this the 21st day of July, 1999, comes Donna R. Wilmot, U.S. Probation Officer, in open court at Greenville, North Carolina, who shows the court that Juvenile Male (initials here) appeared before the Honorable Malcolm J. Howard, U.S. District Judge, sitting in the court at Raleigh, North Carolina on April 18, 1999, and pursuant to an earlier plea of guilty to U.S.C.18 § 5032, Juvenile Delinquency , was sentenced to a forty-eight month term of probation.

From evidence presented, the court finds as a fact that Juvenile Male (initials), who is appearing before the court with counsel, has violated the terms and conditions of the probation judgment as follows:

1. Using a controlled substance.
2. Criminal conduct.
3. Failure to notify the probation officer within seventy-two hours of any change in residence.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the probation sentence heretofore granted be revoked, and the defendant is ordered committed to the custody of the Bureau of Prisons or its authorized representative for imprisonment for a period of twelve months.

**IT IS FURTHER ORDERED** that the defendant be allowed to voluntarily report to the designated institution upon notification of the U.S. Marshal.

**IT IS FURTHER ORDERED** that the Clerk deliver three certified copies of this Judgment to the U.S. Marshal or other qualified officer and that the same shall serve as the commitment herein.

This the 21st day of July, 1999.

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Malcolm J. Howard  
U.S. District Judge

## **Chapter VI - Juvenile Sentencing Process**



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

**MEMORANDUM**

**Daniel K. Martin**  
Chief U.S. Probation Officer

*Reply to:*  
**310 New Bern Avenue, Room 610**  
**P.O. Box 25790**  
**Raleigh, NC 27611-5790**  
**(919) 856-4663 ext. 124**  
**FAX (919) 856-4247**

**DATE:** December 15, 1998

**FROM:** Donna R. Wilmot  
U.S. Probation Officer

**SUBJECT:** Judgment in Juvenile Delinquency Cases

**TO:** All NCE Judges  
All NCE Criminal Deputy Clerks

Attached is a copy of the form which was designed to assist the court in recording juvenile dispositions. The Judgment in Juvenile Delinquency Case form was developed at the request of Judge Howard and prepared by myself and Jerry Sink, with input from the Clerk's Office, U.S. Attorney's Office, Federal Public Defender's Office, as well as others in the Probation Office. It is felt that this new form is a more accurate representation of the sentencing options available in juvenile cases. Judge Howard, with concurrence from Chief Judge Boyle, has reviewed the form and approved its use. We are disseminating the form to all NCE judges and courtroom deputies for consideration of use.

The automated version of the form is now being tested through the Clerk's Office and should be available in the District Court Forms Package by January 1, 1999. Please feel free to advise me if you encounter any difficulty in using this form or have any questions. I can be reached at (919) 856-4663, extension 124.

# UNITED STATES DISTRICT COURT

## Eastern District of North Carolina

Division

UNITED STATES OF AMERICA  
V.

**JUDGMENT IN A JUVENILE DELINQUENCY CASE**  
(For Offenses Committed On or After November 1, 1987)

Case Number:

\_\_\_\_\_  
Juvenile's Attorney

**THE JUVENILE:**

- ☐ admitted his/her delinquency to count(s) \_\_\_\_\_  
of the Juvenile Information.
- ☐ admitted the violation, the court suspended adjudication of delinquency and ordered the juvenile to be placed on supervised probation.
- ☐ was adjudicated delinquent on count(s) \_\_\_\_\_  
of the Juvenile Information pursuant to a Bench Trial.

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
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The juvenile is sentenced as provided in pages 2 through \_\_\_\_\_ of this judgment. The sentence is imposed pursuant to 18 U.S.C. § 5037, as amended effective November 1, 1987.

- ☐ The juvenile has been adjudicated not delinquent on \_\_\_\_\_  
count(s) of the Juvenile Information.
- ☐ Count(s) \_\_\_\_\_ of the Juvenile Information are dismissed on the motion of the United States.

**IT IS FURTHER ORDERED** that the Juvenile shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines and restitution imposed by this judgment are fully paid

\_\_\_\_\_  
Date of Imposition of Judgment

\_\_\_\_\_  
Signature of Judicial Officer

\_\_\_\_\_  
Name and Title of Judicial Officer

\_\_\_\_\_  
Date

VENILE:  
CASE NUMBER:

## OFFICIAL DETENTION

The juvenile is hereby committed to the custody of the United States Attorney General to be detained for a total \_\_\_\_\_ . Said commitment is made pursuant to 18 U.S.C. § 5037 and §5309.

The court makes the following recommendations to the Attorney General:

The juvenile is remanded to the custody of the United States Marshal.

The juvenile shall surrender to the United States Marshal for this district:

a \_\_\_\_\_ a.m. p.m. on \_\_\_\_\_ .  
as notified by the United States Marshal.

The juvenile shall surrender for service of sentence at the institution designated by the Attorney General:  
before 2 p.m. \_\_\_\_\_ .  
as notified by the United States Marshal.  
as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juvenile delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_ , with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

JUVENILE:  
CASE NUMBER:

## PROBATION

The juvenile is hereby placed on a probation for a term \_\_\_\_\_.

The juvenile shall not commit another federal, state or local crime.

The juvenile shall not illegally possess a controlled substance.

☐ The juvenile shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the juvenile pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Monetary Penalties sheet of this judgment.

The juvenile shall comply with the standard conditions that have been adopted by this court (set forth below). The juvenile shall also comply with the additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the juvenile shall not leave the judicial district without the permission of the court or probation officer;
- 2) the juvenile shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the juvenile shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the juvenile shall support his or her dependents and meet other family responsibilities;
- 5) the juvenile shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the juvenile shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the juvenile shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 8) the juvenile shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 9) the juvenile shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 10) the juvenile shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 11) the juvenile shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;



JUVENILE:  
CASE NUMBER:

**ADDITIONAL PROBATION TERMS**

Judgment — 0

JUVENILE:  
CASE NUMBER:

### MONETARY PENALTIES

The juvenile shall pay the following total monetary penalties in accordance with the schedule of payments set forth on on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<u>Totals:</u>	\$	\$	\$

☐ If applicable, restitution amount ordered pursuant to plea agreement ..... \$

### FINE

The above fine includes costs of incarceration and/or supervision in the amount \$.

The juvenile shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

### RESTITUTION

☐ The determination of restitution is deferred ..... An Amended Judgment in a Juvenile Delinquency Case will be entered after such determination.

☐ The juvenile shall make restitution to the following payees in the amounts listed below.

If the juvenile makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>*Total Amount of</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
----------------------	-----------------------------	--	--

Totals: \$ \$

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

JUVENILE:

CASE NUMBER:

## ADDITIONAL TERMS FOR MONETARY PENALTIES

JUVENILE:  
CASE NUMBER:

**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

JUVENILE:  
CASE NUMBER:

### SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) restitution; (2) fine principal; (3) cost of prosecution; (4) interest; (5) penalties.

Payment of the total fine and other monetary penalties shall be due as follows:

- A ☐ In full immediately; or
- B ☐ \$ \_\_\_\_\_ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than \_\_\_\_\_ ; or
- D ☐ in installments to \_\_\_\_\_ days after the date of this judgment. In the event the entire amount of monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in \_\_\_\_\_ (*e.g., equal, weekly, monthly, quarterly*) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ year(s) to \_\_\_\_\_ days after the date of this judgment.

The juvenile will be credited for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ The juvenile shall pay the cost of prosecution.
- ☐ The juvenile shall forfeit the juvenile's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, are to be made to the Clerk, U.S. District Court, Attn: Financial Unit, Post Office Box 25670, Raleigh, NC 27611, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

JVENILE:  
CASE NUMBER:

**ADDITIONAL JUVENILES OR DEFENDANTS HELD JOINT AND SEVERAL**

<u>Case Number</u>	<u>Juvenile/ Defendant Name</u>	<u>Joint and Several Amount</u>
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## **Chapter VII - U. S. Marshal Service Juvenile Procedure**

The following are the procedures the U.S. Marshal Service uses when handling a juvenile prisoner(s). The procedures are broken into two sections: Administrative and Operational.

### **OPERATIONAL**

The U.S. Marshal Service uses special handling procedures when dealing with a juvenile prisoner. A juvenile is defined as a person under 18 years of age, to include persons under 21 who have committed an act of "juvenile delinquency" before attaining the age of 18. Federal juveniles are proceeded against as juveniles unless upon motion of the Attorney General, the court orders the juvenile (over 15) to be proceeded against as an adult.

Title 18 U.S.C. § 5035, requires unadjudicated juveniles to be confined in detention facilities where they will not have regular contact with adults and shall be separated from adjudicated juveniles whenever possible. In order to reduce the possible detrimental influence of adult prisoners while in transit, the following procedures are in effect:

1. Separation. Juvenile prisoners will be transported and handled separately from adult offenders unless specifically authorized by the U.S. Marshal in unusual circumstances.

2. Short Trip. When a prisoner trip is of short duration (less than one day) transportation of both adults and juveniles may be scheduled in the same vehicle where the juvenile is a relative or a close associate of the adult offender(s) or a local decision has been reached that the juvenile would not be detrimentally influenced by the adult offenders. When a trip will exceed one day in duration, the transportation of juveniles and adults normally will be accomplished in separate vehicles.

3. Other. In certain emergency situations, it may not be possible to separate the two classes of prisoners during transit. In such situations, on trips exceeding one day, it is incumbent upon USM personnel to ensure minimum contact between juveniles and adults through close observation and to provide separate facilities during overnight lodging.

Juveniles are not transported by the Bureau of Prisons buses in this district. A juvenile who must be transported outside of the district will go by car or plane. This is done to ensure separation from adult offenders. In most cases, the transportation is completed within three days.

Juvenile offenders will not be processed and fingerprinted unless they are being tried as an adult offender.

## **ADMINISTRATIVE**

Once a juvenile is adjudicated the U.S. Marshal Service will receive three certified copies of the Judgment from the Clerk's Office. The Marshal's Office will send one copy with a cover sheet and a USM Form 129 (Custody Record) to the Bureau of Prisons requesting designation for the prisoner. Upon receiving the designation back from the Bureau of Prisons, the Marshal Service then requests movement from the Prisoner Coordination in Kansas City, MO (PC) by what is known as 106 (request for movement). These trips are usually done by plane or car. Once a juvenile is designated by the bureau of Prisons to an institution, the juvenile must arrive by a certain date. These vacancies are by reservation only.

Juveniles sent for mental studies are handled in the same manner. When the Marshal Service receives three certified copies of the order, request for designation to BOP will be sent. Once designation is received from BOP, the juvenile will be sent as quickly as possible to that designation.



## **Chapter VIII - Bureau of Prisons Juvenile Designation Process**

Documents needed by the Community Corrections Manager's (CCM) Office to designate a juvenile for study or service of sentence:

- \*\* Receive Court Order from the U. S. Attorney's Office.
- \*\* Receive Request for Designation form the United States Marshal Service.
- \*\* Receive Presentence Investigation Report (PSR) from the United States Probation Office if available or intake form.

After receipt of required documents, the designation packet will be forwarded to the CCM office having oversight responsibility of the designated contract facility for placement. Once placement has been verified by the sending CCM office, the sending CCM office will contact the U.S. Marshal Service, via fax, to move the juvenile to the designated facility.

## PS 5216.05 JUVENILE DELINQUENTS

OPI: CCD

NUMBER: 5216.05

DATE: 9/1/99

SUBJECT: Juvenile Delinquents

1. **PURPOSE AND SCOPE.** To establish procedures required for juveniles under the age of 18 and those sentenced under the Federal Juvenile Justice and Delinquency Prevention Act (JJDPA).

The JJDPA (18 U.S.C. § 5031 through 5042) specifies the requirements for a juvenile who has not attained his or her 18th birthday and any juvenile sentenced under the JJDPA as a juvenile delinquent. The requirements are different for each of three groups of juveniles:

those who have not attained their 18th birthday;  
those who have attained their 18th birthday but have not attained their 21st birthday; and  
those who have attained their 21st birthday.

2. **SUMMARY OF CHANGES.** This revision clarifies the limitations on placing juvenile offenders in Community Corrections Centers which also house adults. The Program Statement has also been changed to clarify the use of community service and the amount of subsistence to be paid by employed juveniles.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

- a. Juveniles under the age of 18 or sentenced under the JJDPA will be placed in institutions or other facilities in accordance with the JJDPA and this Program Statement.
- b. Juveniles will be properly identified and housed while in transit.
- c. Disclosure of information and records of juveniles will be restricted to specified persons and purposes.
- d. Juveniles will be placed only in facilities where adequate specialized programs and services are available to them.

### 3. DIRECTIVES AFFECTED

- a. Directive Rescinded

PS 5216.04 Juvenile Delinquents, Juvenile Justice and Delinquency Prevention Act (10/14/98)

- b. Directives Referenced

PS 5070.11 Study and Observation Report (12/31/97)

PS 5100.06 Security Designation and Custody Classification Manual (6/7/96)

PS 5180.04 Central Inmate Monitoring System (8/16/96)

PS 5270.07 Discipline and Special Housing Units (12/29/87)

PS 5280.08 Furloughs (2/4/98)

PS 5326.04 Marriage of Inmates (12/17/98)

PS 5800.07 Inmate Systems Management Manual (12/24/91)

PS 7300.09 Community Corrections Manual (1/12/98)

## 5. STANDARDS REFERENCED

- a. American Correctional Association Third Edition Standards for Adult Correctional Institutions: 3-4293
- b. American Correctional Association Third Edition Standards for Adult Local Detention Facilities: 3-ALDF-4B-03, 3-ALDF-4B-04
- c. American Correctional Association Second Edition Standards for Administration of Correctional Agencies: 2-CO-4B-05, 2-CO-4B-06
- d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: None

6. DEFINITION. The term "juvenile" as used in this Program Statement refers to anyone under 21 years old who has been found delinquent under the JJDPa and anyone under 18 who has been convicted of violating the United States Code.

## 7. PLACE OF CONFINEMENT

a. Confinement of a Juvenile Under 18. Any juvenile who has not attained his or her 18th birthday shall be confined as follows:

(1) Limitation. Any juvenile who has not attained his or her 18th birthday normally is to be placed in a juvenile facility. Title 18 U.S.C. § 5039 states:

"No juvenile committed ... to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."

Juveniles may be placed in facilities for youthful offenders, such as those operated by the California Youth Authority, where they may have regular contact with youthful offenders who are serving state-imposed adult sentences.

Placement in a Community Corrections Center (CCC) which also houses adults is to be considered only for those juveniles ordered by the court to reside in a CCC as a condition of probation.

(2) Placement Alternatives. A juvenile who has not attained his or her 18th birthday is to be placed in a juvenile facility which has an appropriate level of programming and security.

18 U.S.C. § 5039 specifies that, when possible, a juvenile shall be committed:

"[T]o a foster home or community-based facility located in or near the home community."

A Bureau institution may not be designated for a juvenile who has not attained his or her 18th birthday unless that institution can ensure that the juvenile will not have regular contact with adults.

b. Confinement of 18-to-21 Year-Old Juveniles. Confinement of any juvenile who has attained his or her 18th birthday but has not attained his or her 21st birthday shall be as follows:

(1) For a juvenile who is sentenced as an adult pursuant to 18 U.S.C. § 5032, an institution must be

designated in accordance with the Security Designation and Custody Classification Manual.

(2) For a juvenile who has no federal adult sentences and is found delinquent, placement is to be in accordance with the procedures in Section 7.a. above for persons under 18.

(3) If all concurrent federal adult sentences are less than the juvenile sentence, the inmate is to be treated as a juvenile for institution designation.

(4) If any concurrent federal adult sentence is equal to or greater than the juvenile commitment, the adult sentence must take precedence for designation of an institution, and the Bureau must notify the court which imposed the juvenile sentence that the federal adult sentence is to take precedence regarding institution designation.

(5) If there is a consecutive federal adult sentence, the inmate is to continue to be treated as a juvenile for institution designation while serving the juvenile sentence. When the juvenile sentence expires, designation is to be accomplished as described in Section 7.b.(1) above.

c. Change in Placement. When a juvenile sentenced as an adult attains his or her 18th birthday or a juvenile sentenced as a juvenile attains his or her 21st birthday:

(1) A Bureau institution may be designated, treating that juvenile as an adult, in accordance with the Security Designation and Custody Classification Manual, or

(2) The juvenile may remain in a contract juvenile facility for continuity of program participation.

8. PLACEMENT OF A JUVENILE. Juveniles are a special population with special designation needs. Each should be placed in a facility that provides the appropriate level of programming and security.

The following factors should be considered when making a placement:

- a. age;
- b. offense behavior, including violence and weapons involved in the offense;
- c. length of commitment;
- d. prior record;
- e. adjustment during prior commitments;
- f. mental and physical health;
- g. special needs;
- h. Central Inmate Monitoring assignments; and
- i. the safety of the community.

The Community Corrections Manager (CCM) who is responsible for a juvenile facility is knowledgeable about that facility and can determine if a particular juvenile will fit that facility's security and program capabilities.

A CCM requesting a designation for a juvenile shall work with the Management Center Administrator and other CCMs to identify the most appropriate facility to designate for the juvenile.

In all cases the Program Statement on Central Inmate Monitoring must be followed.

9. RESOURCES FOR JUVENILES. A variety of resources are available for juveniles.

a. Foster Homes. A foster home may house one or two delinquents, but no more than two, in a family home, where there may also be natural or adopted children. The home must be state- licensed as a foster home. The foster parents may be a married couple or a single parent.

Because these homes are state licensed and house no more than two delinquents, a Bureau safety inspection of each home is not required.

The contract for foster care services is with the agency providing the service, not the foster parents.

b. Juvenile Facilities. Juvenile facilities may be operated by private agencies or units of government and may be secure or not secure.

(1) Secure. The facility is surrounded by a security perimeter, and the juveniles do not have regular, unescorted access to the community.

(2) Not Secure or Community-Based. These two terms are used interchangeably to describe a facility that is not surrounded by a security fence and/or that allows the juveniles to have regular, unescorted access to the community.

If an Intergovernmental Agreement is used for facilities operated by a unit of government, including a city, county, state, or an Indian Tribe, the CCM, in cooperation with the Community Corrections Branch (CCB) in the Central Office, must develop the Statement of Work.

Contracts with facilities operated by non-governmental agencies are to be solicited for through established procurement procedures using the Statement of Work for Juvenile Facilities, after it is modified, if needed, to apply it to the particular procurement requirements. After determining the need for services, the CCM should contact the CCB to discuss the appropriate SOW to use. In turn, the CCB must work with the Privatization and Special Projects Branch to coordinate the procurement process.

10. STUDY CASES. Courts may order studies of juveniles under the provisions of 18 U.S.C. § 5037(d) to provide more information or under 18 U.S.C. § 4241 through 4246 to determine mental competency, sanity, or whether a mental disease or defect is present.

If the study is ordered to be conducted on an outpatient basis, it is to be arranged for and conducted under the supervision of the local U.S. Probation Office.

If the study is to be conducted in a contract facility, the Court will provide the Bureau with a list of the questions to be answered by the study. If such questions are not provided initially, Bureau staff must contact the Court, normally through U.S. Probation, to request them. The study will be conducted at a juvenile contract facility capable of providing the service.

In addition to answering specific questions from the Court, the study report will augment the Presentence Investigation Report that U.S. Probation prepares. It is expected to include the results of:

a physical examination,  
psychological and educational testing, and  
a psychological and/or psychiatric examination.

The CCM is to assure the study report's timely completion.

**11. A JUVENILE WITH A MENTAL DISEASE OR DEFECT.** If a juvenile is found to have a mental disease or defect under any of the provisions of 18 U.S.C. §§ 4243 through 4246, he or she is to be held in a suitable facility until after his or her 18th birthday.

Suitable facilities may include juvenile facilities and mental health facilities and hospitals. The juvenile may not have contact with pre-trial or sentenced adults.

After the 18th birthday, the CCM must review the juvenile's case at least every six months to determine if a transfer to another facility will provide appropriate treatment for the mental disease or defect. When such a transfer is determined to be appropriate and the transfer is to a Bureau-operated facility, it is to be accomplished through the Medical Designator, who must also review possibilities for alternative placements.

**12. JUVENILE HOLDOVERS.** When in transit, a juvenile who has not attained his or her 18th birthday, as well as a juvenile sentenced under the JJDPa who has not yet attained his or her 21st birthday, is to be held in a contract juvenile detention facility whenever one is available. If there is no approved juvenile facility, an adult contract jail with the capability to separate the juvenile from adult inmates may be used.

If neither of the above is available, as a last resort, a juvenile who is under 18, or who is sentenced under the JJDPa and is under 21, may be held at a minimum, low, or medium security Bureau institution for up to 24 hours. High security institutions may be used only for a juvenile 18 years of age and older.

Juveniles who have not attained their 18th birthdays or who are sentenced under the JJDPa and have not attained their 21st birthday, may be housed in Bureau institutions only with prior authorization from the Regional Director in the region where the institution is located.

When a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDPa and has not attained his or her 21st birthday, is held over in any adult facility, the juvenile must be kept completely separated from adult inmates.

Wardens may refuse to accept any juvenile who is under 18 or is sentenced under the JJDPa and has not attained his or her 21st birthday when it would be impossible to keep the juvenile separated from adult offenders.

**13. IDENTIFICATION IN TRANSIT.** The file or document accompanying a juvenile in transit who has not attained his or her 18th birthday, or is sentenced under the JJDPa and has not attained his or her 21st birthday, is to indicate clearly the juvenile's status as a juvenile, and, if applicable, that the juvenile has an adult sentence.

**14. PHOTOGRAPHS AND FINGERPRINTS.** Photographs and fingerprints of a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDPa, may be taken without the Court's permission to assure adequate identification and accountability of committed delinquents and to alert federal law enforcement authorities in the event of an unauthorized absence from custody. Distribution of photographs within the facility is authorized to satisfy ordinary security and custodial requirements.

a. **Information Submission to the FBI.** Contract facility staff must submit a juvenile's fingerprints to the Federal Bureau of Investigation (FBI) on a Fingerprint Card (FD-249), upon admission to the facility with a notation in the "additional information" block that "the subject has been adjudicated a juvenile delinquent under 18 U.S.C. 5037" or "the subject has not attained his/her 18th birthday but was

sentenced as an adult." The FBI will furnish the FBI number and the arrest history, if one exists, and return the Fingerprint Card.

b. Disclosure Limitation. Fingerprints and photographs of a juvenile who has not attained his or her 18th birthday, or is sentenced under the JJDPa, may not be used as a method of exchanging arrest information between law enforcement agencies.

15. DISCLOSURE OF JUVENILE RECORDS. 18 U.S.C. § 5038 limits the release of information about juveniles. Therefore, when a request for information is received, no information can be provided until the source of the request can be verified and a legitimate "need to know" has been established. Normally, the information is to be given only to law enforcement officials and immediate family members.

Information generated at juvenile court proceedings is sealed, and the release of these records is restricted generally to courts, law enforcement agencies, victims, and treatment agency administrators. Juvenile records can be released only to meet the circumstances set forth in 18 U.S.C. § 5038.

Persons, such as juvenile facility administrators, who receive information about a juvenile sentenced under the JJDPa, may not disclose that information to anyone else, except staff at the facility directly involved with the juvenile.

If the juvenile was found delinquent and adjudicated pursuant to 18 U.S.C. § 5031 et. seq., state and local law enforcement, victims, and witnesses are not notified of the juvenile's furlough, escape, or release. However, release of information about the final disposition of the juvenile proceeding is permitted to the victim or, if the victim is deceased, to the victim's immediate family. Those waived to adult court are considered adults and treated accordingly.

Retirement and disposal of juvenile files shall be in accordance with the Inmate Systems Management Manual.

## 16. JUVENILE PROGRAMS AND SERVICES

a. Contract Agency Policies. The Statements of Work for Secure Juvenile Facilities and Community-Based Juvenile Facilities establish the types of programs and services required for juveniles.

Consequently, it is important that the CCM ensure that each juvenile contract agency's policies are consistent with Bureau directives and reflect sound correctional practices. The CCM must review these policies and practices during monitorings to ensure compliance.

b. Furloughs, Escorted Trips, and Community Service. Juveniles may be considered for furloughs, escorted trips, and community service. Good professional judgement must be used by both the contractor and the CCM when considering whether to allow a juvenile such privileges. To ensure that appropriate guidelines and procedures are followed, the CCM's review and approval are required for any furlough of a juvenile. Community service work must be unpaid and benefit the community directly.

When determining whether to request a furlough, escorted trip, or community service, contractors, whether governmental correctional agencies or private juvenile contractors, are to follow their policies which are reviewed and approved during contract negotiations.

In all cases, the Program Statement on Central Inmate Monitoring must be followed, and the contractor must contact the appropriate U.S. Probation Office(s) for their comments regarding a furlough.

c. Financial Responsibility. Employed juveniles are expected to pay subsistence. The amount should approximate 25% of the juvenile's gross weekly income.

Juveniles are expected to meet all legitimate financial obligations. Staff are to assist juveniles to develop a plan to meet these obligations.

Costs of incarceration are not charged to juveniles.

d. Marriage. If a juvenile desires to marry, advance approval is required, following the procedures described in the Program Statement on Marriage of Inmates if the juvenile is in Bureau custody and from U.S. Probation if the juvenile is in the facility as a condition of probation.

e. Driving. Unless approved in advance by the CCM, a juvenile may not drive while in Bureau custody. Permission to drive may not be granted unless the juvenile has a valid driver's license and permission from the owner of the car to drive the vehicle. The vehicle must be registered and have any insurance required by state law.

Permission from the CCM is required before a juvenile can take a driver's test or obtain a license.

/s/

Kathleen Hawk Sawyer  
Director





# Operations Memorandum

NUMBER: 055-99 (5880)  
DATE: 10/25/99  
SUBJECT: Juvenile Justice &  
Delinquency Prevention  
Act Prior Custody  
Credit - Old & New Law  
Sentences

EXPIRATION DATE: 4/25/00

1. **PURPOSE AND SCOPE.** To provide instructions for application of jail time credit to **Old Law** and **New Law** terms imposed under the **Juvenile Justice and Delinquency Prevention Act of 1974 (JJJPA)** (P.L. 93-415, 18 U.S.C. §§ 5031-5042).

Pending a revision to the **Old Law** policy and establishment of **New Law** policy, **JJJPA** adjudications are to be calculated in accordance with this Operations Memorandum.

Currently, Bureau policy allows for jail time credit to be applied to a **JJJPA** adjudication the same as for an adult sentence. The exception has been, in the case of a juvenile who was ordered committed to the 21st birthday, prior custody credit would be deducted from the Statutory Release Date (SRD) instead of the Expiration Full Term (EFT) date.

In light of a recent court opinion, i.e., U.S. v. D.H., 12 F.Supp. 2d 472 (D.V.I), and other factors, the Bureau will no longer apply prior custody credit to any **Old Law** or **New Law** adjudications imposed under **JJJPA**.

## 2. DIRECTIVES REFERENCED

PS 5880.28	Sentence Computation Manual (CCCA of 1984) (2/21/92)
PS 5880.30	Sentence Computation Manual (Old Law) (7/16/93)

10/25/99

Page 2

3. **PROCEDURES.** Calculate **Old Law JJDP**A adjudications according to **Old Law** Bureau policy, eliminating presentence time credit. Calculate **New Law JJDP**A terms according to the statutory provisions set forth in 18 U.S.C. §§ 5031-5042. Prior custody credit is not to be applied to **New Law JJDP**A adjudications.

These procedures are effective on this date and apply to all **JJDP**A adjudications imposed on or after this date.

4. **ACTION.** Questions may be directed to the Operations Section, Inmate Systems Management Branch, at (202) 307-3050.

This Operations Memorandum must be retained in both Sentence Computation Manuals as cited in the Directives Referenced section of this Operations Memorandum.

/s/  
Michael B. Cooksey  
Assistant Director  
Correctional Programs  
Division

## **MENTAL HEALTH TESTING FACILITIES**

If the juvenile is detained and is 15 years or less, he/she will likely be detained at the Cumberland County Juvenile Center located at 1911 Coliseum Drive, Fayetteville, North Carolina, 28306, phone# (910) 486-1411. Mental health evaluations can be performed at this facility by mental health professionals in the community. See Panel of Psychologists in this chapter for professionals willing to perform these evaluations.

If the juvenile is on bond, the mental health evaluations can be performed in the community. See Panel of Psychologists in this chapter for professionals willing to perform these evaluations.

If the juvenile is older than 15 and a mental health evaluation is required/ordered, it is likely that the evaluation will be performed at the Charles Hickey Jr., School, 2400 Cub Hill Road, Baltimore Maryland 21234, phone #(410)668-3300.



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

**MEMORANDUM**

**Daniel K. Martin**  
Chief U.S. Probation Officer

**Reply to:**  
**472-C Western Blvd.**  
**P.O. Box 526**  
**Jacksonville, NC 28541**  
**(910) 346-4756**  
**FAX (910) 347-9136**

**DATE:** July 22, 1999

**FROM:** Juvenile Work Group Members

**SUBJECT:** Observation and Study in Juvenile Cases

**TO:** Terrence W. Boyle, Chief U.S. District Judge  
W. Earl Britt, Senior U.S. District Judge  
James C. Fox, U.S. District Judge  
Malcolm J. Howard, U.S. District Judge  
Alexander B. Denson, U.S. Magistrate Judge  
Wallace W. Dixon, U.S. Magistrate Judge  
William N. Mason, U.S. Magistrate Judge  
Louise W. Flanagan, U.S. Magistrate Judge

One of the concerns addressed by the Juvenile Work Group is the process that takes place when a mental health study is ordered by the Court in juvenile cases pursuant to 18 U.S.C. § 5037(d). If the juvenile is detained or ordered detained, for purposes of a study, the BOP must designate a contract facility to perform the study. There are only a few facilities willing to do this; none are located in North Carolina. Upon designation, the U.S. Marshal arranges for, and provides, the juvenile's transportation to and from the facility. Although the actual study is usually concluded in several days, the entire process (from the day the study is ordered until the day the juvenile is returned to the district) can take three to four months. We think we have found a way to expedite this process.

At the Work Group's request, AFD Joseph Ross has contacted a number of mental health professionals in the district who are willing to perform juvenile studies and address forensic mental health and transfer issues for the Court. To date, four mental health care professionals have agreed to provide their services. Attached for the Court's review are copies of the four panelists' curriculum vitae. It is anticipated that more names will be added to the list which will be provided to the Court.

The Work Group believes that offering the Court an option to have a study performed locally will expedite an otherwise lengthy process. Should the Court have any questions or concerns, please contact any of the Work Group members for further information. Additionally, if there are any juvenile issues that the Court would like this group to address, we will gladly do so.

cc: Felice Corpening, AUSA  
Major Charles Hayes, SAUSA  
Arthur Marks, CCM  
Joseph Ross, AFD

Chuck Williams, SUSPSO  
Alex Holman, DUSM  
Daniel K. Martin, CUSPO

**PANEL OF PSYCHOLOGISTS  
FOR JUVENILE MENTAL HEALTH AND TRANSFER ISSUES**

**Psychologists**

Ginger C. Calloway, Ph.D., HSP-P\*  
855 Washington Street  
Suite 200  
Raleigh, NC 27605  
Office: (919) 834-8033

Richard Robert Rumer, Ph.D\*  
Scott Building  
Dorothea Dix Hospital  
South Boyland Avenue  
Raleigh, NC 27603  
Office: (919) 733-5344  
Voice Mail/Pager: (919) 406-1924

**NeuroPsychologists**

Robert Lake Conder, Jr., Psy.D\*  
Carolina Neuropsychological Service Inc.  
3701 National Drive, Suite 222  
Raleigh, NC 27612  
Office: (919) 783-8411

Gregory L. Duncan, Ph.D\*  
Carolina Centere  
702 Johns Hopkins Drive  
Greenville, NC 27834  
Office: (252) 757-1023 or Home office: (252) 758-1855  
Pager: (252) 551-0471

\*Curriculum Vitaes available from the probation office

### **Juvenile Detention Facilities**

What follows is a listing of many of the juvenile detention facilities contracting with the Bureau of Prisons for housing juveniles sentenced to a period of detention. General information regarding the facilities is included. Additional information regarding a particular facility may be obtained by reviewing facility documents in the Raleigh probation office or contacting the facility directly.

## Juvenile Facilities Addresses

	<u>Facility</u>	<u>Address</u>
<b>1</b>	<b>Three Springs School of Tuskegee</b>	4280 U.S. Highway 29 South Tuskegee, Al 36083-5950
<b>2</b>	<b>Garland City Juvenile Facility</b>	222 Woodbine Street Hot Springs, AR 71901
<b>3</b>	<b>New Beginnings Hills Youth Center</b>	2937 North Stone Ave. Tuscon, AZ 85705
<b>4</b>	<b>DeWitt Nelson Training Center</b>	7650 South Newcastle Road Stockton, CA 95213
<b>5</b>	<b>El Paso De Robles School</b>	4545 Airport Road Paso Robles, CA 93447
<b>6</b>	<b>Heman G. Stark</b>	15180 Euclid Avenue Chino, CA 91710
<b>7</b>	<b>Karl Holton School</b>	7650 South Newcastle Road Stockton, CA 95213
<b>8</b>	<b>MT. Buillion</b>	N. Highway 49 4MI Mariposa, CA 95338
<b>9</b>	<b>N.A. Chaderjian School</b>	7650 South Newcastle Road Stockton, CA 95213
<b>10</b>	<b>Northern Youth Correctional Reception Center-Clinic</b>	3001 Ramona Avenue Sacramento, CA 95826
<b>11</b>	<b>O.H. Close School</b>	7650 South Newcastle Road Stockton, CA 95213
<b>12</b>	<b>Pine Grove Youth Conservation Camp</b>	13630 Aqueduct-Volcano Rd Pine Grove, CA 95665
<b>13</b>	<b>Twin Pines Ranch</b>	49500 Twin Pines Ranch Rd Bannings, CA 92220
<b>14</b>	<b>Washington Ridge Youth Conservation Camp</b>	Washington Star Route Nevada City, CA 95959
<b>15</b>	<b>Ventura School</b>	3100 Wright Road Camarillo, CA 93010

## Juvenile Facilities Addresses

<b>16</b>	<b>Manson Youth Institution</b>	42 Jarvis Street Cheshire, CT 06410
<b>17</b>	<b>Charles Hickey Jr., School</b>	2400 Cub Hill Road Baltimore, MD 21234
<b>18</b>	<b>Sauk Center</b>	P. O. Box C Sauk Center., MN 56378
<b>19</b>	<b>Children's Comprehensive Services</b>	55 Basin Road Butte, MT 59701
<b>20</b>	<b>New Day Ranch</b>	301 Coburn Rd Billings, MT 59101
<b>21</b>	<b>Youth Services Center</b>	410 SO. 26 <sup>th</sup> Street Billings, MT 59107
<b>22</b>	<b>Intermountain Youth Center</b>	P.O. Box 1089 Sante Fe, NM 87504
<b>23</b>	<b>Dakota Horizons</b>	66 Museum Drive Dickinson, North Dakota 58601
<b>24</b>	<b>Lake Regional Law Enforcement Center</b>	Rural Route Devils Lake, ND 58301
<b>25</b>	<b>ND. Youth Correctional Center</b>	Route 4 Mandan, ND 58554
<b>26</b>	<b>SW Multi Co. CC</b>	66 West 12 <sup>th</sup> Street Dickinson, ND 58602
<b>27</b>	<b>Glen Mills School</b>	Glen Mills Rd Concordville, PA 19331
<b>28</b>	<b>Loysville Youth Development Center</b>	RD 2, Box 365-B Loysville, PA 17047
<b>29</b>	<b>Weaversville Intensive Treatment Unit</b>	6710 Weaversville rd Northampton, PA 18067
<b>30</b>	<b>Chamberlain Academy</b>	211 West 16 <sup>th</sup> Avenue Chamberlain, SD 57325



## Juvenile Facilities Addresses

<b>31</b>	<b>Custer Youth Correction Center (ND Correctional Youth Center)</b>	P.O. Box 151 Custer, SD 57730
<b>32</b>	<b>McCrossan Boys Ranch</b>	47135 260 <sup>th</sup> St Sioux Falls, SD 57107
<b>33</b>	<b>Our Home Inhalant Program</b>	East Centennial Rd Huron, SD 57350
<b>34</b>	<b>Our Home, Group Care</b>	501 W. Main St Parkston, SD 57366
<b>35</b>	<b>Our Home Inhalant Abuse Treatment</b>	40354 210 <sup>th</sup> Street Huron, SD 57350
<b>36</b>	<b>Our Home Co-ED</b>	P.O.Box 550 Parkston, SD 57366
<b>37</b>	<b>Our Home Rediscovery</b>	510 Nebraska, SW Huron, SD 57350
<b>38</b>	<b>Kyle Juvenile Detention</b>	P.O. Box 250 Kyle, SD 57770
<b>39</b>	<b>Western South Dakota Juvenile Services</b>	3505 S. Hwy 79 Rapid City, SD 57701
<b>40</b>	<b>Shelby Training Center, Memphis</b>	3420 Old Getwell Road Memphis, TN 38118
<b>41</b>	<b>Juvenile Detention Center</b>	4800 E. Rancier Killeen, TX 76543
<b>42</b>	<b>Northwestern Regional Juvenile Detention Center</b>	1026 Fort Collier Road Winchester, VA 22638
<b>43</b>	<b>Ethan Allen School</b>	P.O. Box 900 Wales, WI 53183
<b>44</b>	<b>Lincoln Hills School</b>	W 4380 Copper Lake Road Irma, WI 54442
<b>45</b>	<b>Southern Oaks Girl School</b>	21425B Spring Street Union Grove, WI 53182
<b>46</b>	<b>CAC of Casper Juvenile Center</b>	201 NO. David St., 3 <sup>rd</sup> Floor Casper, WY 82601

## Juvenile Facilities Addresses

47	Thunder Child Treatment Center	1000 Decker Road Sheridan, WY 82801
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Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Three Springs School of Tuskegee</b> 4280 U.S. Highway 29 South Tuskegee, Al 36083-5950	Mrs. Patrick - Administrator  www.threesprings.com	(334) 727-2216

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Ages 12 to 17 15 bed facility	

PROGRAMS	
<ul style="list-style-type: none"> <li>▼ Middle and high school classes, special education, GED classes and PACE Learning System</li> <li>▼ Counseling/mental health: daily group, weekly individual counseling, daily peer group meetings, basic living skills training</li> </ul>	<ul style="list-style-type: none"> <li>▼ Vocational programs: carpentry and small engine repair</li> <li>▼ gymnasium for recreational activities - outdoor recreational activities in secure area</li> </ul>

JUVENILES SENTENCED AS ADULTS
G Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Garland City Juvenile Detention Center</b> 222 Woodbine Street Hot Springs, Arkansas 71901	Lt. Steve Michau	(501) 622-3643

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
All juveniles between the ages of 10 to 18 are accepted.	Non-violent offenders are preferred.

PROGRAMS	
! <u>Education:</u> PACE learning Curriculum. (This material is equivalent to middle school and high school curriculums.)	! <u>Counseling-</u> Individual and group counseling as needed.
!    Full time teacher aide.	!    Chaplin program
!    GED	

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>New Beginnings Treatment Ctr.</b> 2937 N. Stone Ave Tucson, AZ 85705	Program Director- Mrs. Diaz	(520) 624-9496

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male G Female G Male and Female

OFFENDERS	
Accepted	Not Accepted
All offenders ages 10 to 24.	

PROGRAMS	
<p>! <u>Education:</u> elementary, middle, high school.</p> <p>! College prep courses offered through community college.</p> <p>! <u>Counseling:</u> family, group, and individual.</p>	<p>! Treatment groups. (drug program, sex offender counseling, victim impact, parenting classes, behavior and anger management classes, job development skills, decision making , personal development etc.)</p>

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No G Case by Case Basis

Bureau of Prisons  
**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>DeWitt Nelson Training Center</b> P.O. Box 213003 7650 South Newcastle Road Stockton, California 95213-9003	Superintendent- Gary Maurer	9209) 944-6113

SECURITY	HOUSING
<input type="checkbox"/> Secure ( Medium)    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Youth Authority wards between 18 and 21 Accepted offenders cannot be revealed.	

PROGRAMS	
<p><b>!</b> Education: ½ day vocational shop and ½ day academic school with additional academic/vocational classes offered in the evening.</p> <p><b>!</b> Work Experience: various trade occupations operated in conjunction with state employed trades at the NCYC complex. Limited security case wards work in the community in various entry-level positions in public service, culinary arts, and a community-based work furlough program.</p>	<p><b>!</b> Additional Services: outside resources include alcohol/drug counseling, M-2 volunteer program. Psychiatric/psychological services, vocational counseling, victim awareness, recreation/religious services, parenting classes, and sex offender group counseling.</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>El Paso De Robles School</b> 4545 Airport Road Paso Robles, CA 93447	Training Officer- Dan Larson	(805) 238-4040

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure <input type="checkbox"/> Non-Secure	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Male and Female

☎ Housing consist of part dormitory style and traditional "lock-up."

OFFENDERS	
Accepted	Not Accepted
Offenders ages 15 to 20. Estimate.	

PROGRAMS	
<p>! <u>Education:</u> high school</p> <p>! Junior college is offered through local school.</p> <p>! <u>Counseling:</u> Individual and Group counseling.</p> <p>! Treatment groups. (Two formal drug programs, gang awareness, victim impact, self-esteem, parenting and anger management programs are offered.)</p>	<p>! <u>Vocational Education:</u> upholstery, landscaping, construction technology, cabinet shop, electronics repair skills are available.</p>

JUVENILES SENTENCED AS ADULTS
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G Yes	Q No	G Case by Case Basis
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Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Herman G. Stark YTS</b> 15180 Euclid Avenue Chino, California 91710	Superintendent- Xavier Ruiz	(909) 597-1961

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
All males ages 18 to 25 years of age.	Severe mental health problems.

PROGRAMS	
<b>!</b> <u>Education:</u> high school, GED, and college prep courses. <b>!</b> <u>Counseling:</u> group and individual. <b>!</b> Treatment groups. ( Victim Impact, drug, behavior, gang, parenting, etc.)Treatment for sex offenders is also offered.	<b>!</b> <u>Vocational Education:</u> Carpentry, construction, and masonry skills. <b>!</b> <u>Athletic programs:</u> Baseball, football, soccer, basketball.

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Karl Holton School</b> 7650 S. Newcastle Road Stockton, California 95219-9002	Program Administrator/Public Information Officer- Erin Brock	(209) 944-6393

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure      G Non-Secure	<input checked="" type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
The Youth Authority accepts all male offenders age 16 to 24 years old. Primary focus is on those with substance abuse problems, but they will accept sex offenders or a violent offenders with a substance abuse problem.	

PROGRAMS	
<b>!</b> <u>Education:</u> high school. <b>!</b> GED and college prep courses are offered. <b>!</b> Treatment Groups. (drug/alcohol, victim impact, sex offender (informal), behavior/management, gang, psychological/psychiatric treatment, parenting classes, social thinking skills, relapse prevention/personal life plan, etc.)	<b>!</b> <u>Counseling Groups:</u> group and individual counseling. <b>!</b> <u>Vocational Education:</u> landscaping, computers and janitorial skills are taught.

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>MT. Buillion</b> N. Hwy 49 4MI. Mariposa, California 95338	Superintendent - Dennis Baker	(209) 966-3634

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male G Female G Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders 18 to 25 years of age.	Individuals who are charged with arson, have a history of escapes or runaways, and sex offenders are not accepted.

PROGRAMS	
<p>! <u>Education:</u> GED, special education, basic high school classes.</p> <p>! <u>Counseling:</u> weekly group sessions and individual counseling available.</p> <p>! Treatment Programs. ( Victim impact, parenting programs, decision making, anger management, AAA, N.A.A., etc.)</p>	<p>! <u>MISC:</u> Offenders, if selected, work with the forestry department, as firefighters, during the day and attend classes in the evening.</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes Q No G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>N.A. Chaderjian School</b> 7650 South Newcastle Road Stockton, California 95213-9004	Superintendent- Steve Weiss	(209) 944-6401 Fax: (209) 547-0622

SECURITY	HOUSING
<input type="checkbox"/> Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Young male adult offenders aged 18 to 25. They must be a felon to be accepted.	No misdemeanors.

PROGRAMS	
<ul style="list-style-type: none"> <li>! Intensive Treatment Program</li> <li>! Specialized Counseling</li> <li>! Sex offender Program</li> <li>! Gang Unit</li> <li>! Drug Programs</li> </ul>	<ul style="list-style-type: none"> <li>! Behavior Control Program</li> <li>! Educational Programs</li> <li>! Treatment Groups (anger management, parenting, etc.)</li> </ul>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Northern Youth Correctional Reception Center-Clinic</b> 3001 Romona Avenue Sacramento, California 95826-3814	Sharon Shamsby	(916) 733-2430

SECURITY	HOUSING
<input type="checkbox"/> Secure                      G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
They accept both juvenile and adult offenders between the ages of 11-25 for diagnostic evaluations	commitment must be sentenced by the court and accepted by our intake Consultants.

PROGRAMS	
! <u>Education:</u> middle and high school. ! GED and limited college prep courses. ! <u>Counseling Programs:</u> family, group and individual counseling. ! Treatment Groups. ( drug/alcohol, victim impact, sex offender, behavior/anger management, gang, parenting classes and psychiatric/psychological treatment groups are offered.)	! <u>Vocational Programs:</u> carpentry, plumbing, culinary, electrician, landscape maintenance, and warehouse skills are taught. ! Educational testing and services to wards with special education needs are provided during the diagnostic testing.

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>O.H. Close School</b> 7650 South Newcastle Road Stockton, CA 95213-9001	Yvette Marc-Avrele - Superintendent	(209) 944-6301 Fax: (209) 944-5612

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Ages 12 to 24 All types of offenders	

PROGRAMS	
<ul style="list-style-type: none"> <li>▼ Middle and high school with high school diploma</li> <li>▼ Special education classes</li> <li>▼ Speech therapy</li> <li>▼ Vocational programs</li> <li>▼ Victim awareness program</li> </ul>	<ul style="list-style-type: none"> <li>▼ Staff psychologist</li> <li>▼ Youth counselors</li> <li>▼ group counseling</li> <li>▼ sex offender program</li> <li>▼ substance abuse treatment</li> </ul>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Pine Grove Youth Conservation Camp</b> 13630 Aqueduct-Volcano Rd Pine Grove, CA 95669	Superintendent - Jesse Garcia	(209) 296-7581

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male G Female G Male and Female

OFFENDERS	
Accepted	Not Accepted
Male offenders age 18 to 25 years old.	No murderers, sex offenders, nor those convicted of violent crimes.

PROGRAMS	
<p>! <u>Education:</u> High school curriculum is taught to obtain diploma.</p> <p>! GED</p> <p>! CHASPE exam available.(This is only acknowledged in California.)</p> <p>! <u>Counseling:</u> Individual and group counseling.</p>	<p>! Treatment groups: Gang Awareness, substance abuse, formal drug programs, parenting, etc.</p> <p>! <u>Vocational:</u> They work with the Department of Forestry, as firefighters.</p>

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Twin Pines Ranch</b> 49500 Twin Pines Rd Banning, California 92220	Director- Kay C. Kleiber	(909) 849-2951

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male   G Female   G Male and Female

OFFENDERS	
Accepted	Not Accepted
Male, non-violent, 15-18 years of age, who are physically capable of meeting boot camp program requirements and volunteer to participate in all aspects of the program.	Those in need of extensive mental health services, requiring psycho tropic medication or close mental health supervision and therapy. Also excluded are those with prior juvenile placement failures, and those with a history of serious arson.

PROGRAMS	
<p>!   <u>Vocational Programs:</u> training in carpentry, culinary arts, plumbing, agriculture, automotive mechanics, and masonry.</p> <p>!   <u>Athletic Programs:</u> football, basketball, baseball, soccer, and cross-country running.</p> <p>!   <u>Military Program:</u> residents called “cadets”, wear military-style uniforms and engage in military exercises including marching, drilling, inspection, and physical training.</p>	<p>!   Individual and Group Counseling</p> <p>!   Teen Parenting</p> <p>!   Identification of Visual, Auditory, and Perceptual Learning Disabilities</p> <p>!   Substance Abuse Counseling</p> <p>!   Community Service</p> <p>!   Victim Awareness Program</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes   Q No   G Case by Case Basis



Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Washington Ridge Youth Conservation Camp</b> Washington Star Route Nevada City, California 90650	Superintendent- Steve Gardner	(530) 265-4623

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male   G Female   G Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders ages 18 to 24 years of age.	Sex offenders, history of arson, and severe mental patients

PROGRAMS	
! <u>Education:</u> high school, college prep courses, GED and California Proficiency exams are available. ! <u>Counseling:</u> individual and group sessions. Parenting classes are available if ordered. ! <u>Vocational:</u> career awareness and decision making programs.	!   Treatment groups. (impulse control, anger management, social thinking, formal thinking, gang awareness, parenting, victims impact, self-esteem, etc.) ! <u>Misc.:</u> the offenders work on various public service projects such as clearing, cleaning, and building public parks, fire prevention, senior citizens assistance, and other community projects.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No   G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Ventura School</b> 3100 Wright Road Camarillo, California 93010	Director- Berry Bowling	(805) 485-7951

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
all offenders	

PROGRAMS	
! <u>Education</u> : comprehensive high school program, college courses leading to that of a an AA or BA degree, GED preparation and testing, career planning (pre-parole), and special education classes.	!    Treatment Groups. (Anger management, Domestic Violence, Gang Awareness, Self Image, Informal Substance Abuse, Commitment Offense Group, Changing directions, and parenting.)
! <u>Counseling</u> : individual and group therapy.	! <u>Vocational</u> : classes include Business Education and Animal Grooming.

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Manson Youth Institution</b> Department of Correction 42 Jarvis Street Cheshire, CT 06410	Administrator- Evelyn Bush	(203) 272-5391 Fax (203) 699-1845

SECURITY	HOUSING
<input type="checkbox"/> Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Male offenders aged 14-21	None

PROGRAMS	
<p><b>!</b> <u>Educational Programs:</u> Adult basic education, business skills, college courses, computer-assisted instruction, English as a second language, fine arts, general educational development (GED), health, life skills, school to work program, social studies through a Macintosh, and special education.</p> <p><b>!</b> <u>Mental Health Programs:</u> C-Housing Unit wing Program, STEP (special education and treatment program), Parenting Skills Group, Dealing with Anger, Understanding Sexual Assault, Veteran Sex Offender Group, and Long-Term Group.</p>	<p><b>!</b> <u>Vocational Education:</u> Small engine technology, automotive technology, graphic arts technology, and building maintenance.</p> <p><b>!</b> <u>Treatment Programs:</u> Alcoholics Maintenance, Narcotics Anonymous, Youth Reaching Out To Youth Program, Addiction Services Community Service Program and HOTEL Program (Helping Ourselves Through Everyday Living).</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Charles Hickey Jr. School</b> 2400 Cub Hill Road Baltimore, MD 21234	Program Director - Brian Trees	(410) 668-3300

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
ages 14 to 19 Court ordered studies	

PROGRAMS	
<ul style="list-style-type: none"> <li>▼ elementary, secondary, pre-GED, GED, special education, and pre-vocational instruction</li> <li>▼ Diagnostic testing</li> <li>▼ Vocational programing: electrical, printing, computer, automotive, construction, and agricultural</li> </ul>	<ul style="list-style-type: none"> <li>▼ Counseling: peer group daily meetings, one-on-one counseling when needed, social skills counseling</li> <li>▼ Sports program, daily intramurals, some competition with area schools</li> </ul>

JUVENILES SENTENCED AS ADULTS
G Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Sauk Centre</b> P.O. Box C Sauk Centre, MN 56378	Superintendent Richard Quick	(32) 352-1100

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure (Minimum facility)   G Non-Secure	G Male   G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
	No restrictions on the type of offender they will accept- females must be committed by judge.

PROGRAMS	
! <u>Treatment Programs</u> : sex offender treatment, adolescent female gender counseling. Facility will do chemical dependency evaluations, but there is no chemical dependency treatment. No impatient treatment.	! <u>Educational Programs</u> : special education, GED, high school, and work programs. ! <u>Cultural/Religious Programs</u> : all denominations for religious services.

JUVENILES SENTENCED AS ADULTS
G Yes <input checked="" type="checkbox"/> No   G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Children's Comprehensive Services</b> 55 Basin Road Butte, Montana 59101	CEO- Lana Pamrot	(406) 494-4183

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders aged 5-18	Sex offenders (unless they have behavior problems and their sex offender treatment is done elsewhere. Those charged in crimes of arson are not accepted.

PROGRAMS	
! <u>Education Programs</u> - elementary, middle, high school, and GED ! <u>Counseling</u> - family, individual, and group counseling.	!    Treatment groups. (drug, behavior, victim impact, parenting counseling, etc.)

JUVENILES SENTENCED AS ADULTS
G Yes    Q No <input checked="" type="checkbox"/> Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>New Day Ranch, Inc.</b> 301 Coburn Road Billings, Montana 59101	Brian Knudson	(406) 254-2340

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female <input checked="" type="checkbox"/> Male and Female

☎ There are two different locations for the boys and girls facilities. Their facilities are about 12 miles apart.

OFFENDERS	
Accepted	Not Accepted
Each case is reviewed on an individual basis. They focus on adolescence with serious emotional disturbances. Age of offenders- 10 - 18 years old.	Sex offenders

PROGRAMS	
! <u>Education:</u> elementary, middle, and high school. ! <u>Counseling:</u> family, group and individual counseling.	!    Drug/Alcohol and Behavior/ Anger management programs.

JUVENILES SENTENCED AS ADULTS
G Yes <input checked="" type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Youth Services Center</b> 410 SO. 26 <sup>th</sup> Street Billings, MT 59107	Director- Valarie Webber	(406) 256-6825

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders ages 12-18	

PROGRAMS	
! <u>Education Programs:</u> middle and high school	!    Group Counseling
!    GED and College prep courses offered.	!    Drug counseling
	!    Planned Parenthood classes.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No    G Case by Case Basis



Bureau of Prisons  
**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Intermountain Youth Center</b> P.O. Box 1089 Sante Fe, New Mexico 87504	Program Director- Trish Daino www.Intermountain- centers.org	(505) 986-8481

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Accepted are both female and male Native American adolescents between the ages of 12 and 21 who have been adjudicated either as delinquent or are in need of supervision. Typically accept youth with wide range of psychological, social, educational, and behavioral problems.	Severe psychiatric difficulties and/or those who are severely impaired physically or intellectually. Also they do not accept those who do not speak or understand English.

PROGRAMS	
<b>!</b> <u>Education:</u> Middle and High school. <b>!</b> GED and college prep courses are available. <b>!</b> <u>Counseling:</u> <b>Juveniles that need individual counseling go to the American Indian Mental Health services. Not at the facility.</b> <b>!</b> Treatment Groups: AA, N.A.A., drug counseling, behavior counseling, etc. Most counseling is done through the hospital and American Indian Mental Health services.	<b>!</b> Specific goals of the program are to develop skills that can be maintained in the following areas: Personal problem-solving and decision-making skills, social skills, leisure skills. Responsibility for oneself, attitude change, and self-sufficiency and resource awareness.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Dakota Horizons</b> 66 Museum Drive Dickinson, North Dakota 58601	Administrator- Norbert Sickler	(701) 264-7790

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input checked="" type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Males between ages 12 and 21	None

PROGRAMS	
! Nationwide mental health evaluation for court. ! Sex Offender Programs	! Substance Abuse Programs ! Education: High school and college (Students pay some college costs.)

JUVENILES SENTENCED AS ADULTS
G Yes    Q No <input checked="" type="checkbox"/> Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Lake Regional Law Enforcement Center</b> 222 West Walnut Devils Lake, North Dakota 58301	Juvenile Coordinator- Paul A Skudrall	(701) 662-0700 Fax (701) 662-7070

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Violent, non-violent, sex offenders - just about any	

PROGRAMS	
<p><b>!</b> <u>Educational Programs</u>: GED program, carpentry, job skills, plumbing, social skills, art I and art II, transition, auto mechanics, Native Americans crafts, computers, first aid and CPR, ceramics, music, sex education, and independent living skills.</p> <p><b>!</b> <u>Treatment Programs</u>: chemical dependency treatment, sex offender treatment, and individual treatment programs.</p>	<p><b>!</b> <u>Cultural/Religious Programs</u>: Community pastoral services are available upon request. The services provided are interdenominational in nature, unless specifically requested.</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Case by Case Basis

**2** Juveniles that are sentenced as adults will remain in there facility until age 21, then they will be transferred to an adult facility.

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>ND. Youth Correctional Center</b> Route 4 Mandan, North Dakota 58554	Super. Int. Darrell Nitsahke	(701) 667-1400

SECURITY	HOUSING
<input type="checkbox"/> Secure <input checked="" type="checkbox"/> Non-Secure	G Male    G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
All offenders aged 12-18 are accepted.	

PROGRAMS	
! <u>Education</u> : elementary, middle, and high school	! <u>Treatment Groups</u> : behavior management, gang, parenting, fathers program, grief, coping skills, victim, etc.
!    GED	
! <u>Counseling</u> : individual and group meetings.	! <u>Vocational Education</u> : Industrial arts, automobile technology, welding and building trades.
!    Cultural Counseling	!    Community competitive basketball team for males.

JUVENILES SENTENCED AS ADULTS
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>SW. Multi Co. CC</b> 66 West 12 <sup>th</sup> Street Dickinson, North Dakota 58602	Head of education department- Rita Hammond Administrator- Norbert Sickler	(701) 264-7790

SECURITY	HOUSING
■ Secure    G Non-Secure	G Male    G Female    ■ Male and Female

OFFENDERS	
Accepted	Not Accepted
Mostly male offenders aged 13-21 (all cases are looked at on individual basis.) They accept kids with mental health problems. (One third of their juveniles are on medications)	Females are accepted but on rare occasions and for only a short period of time.

PROGRAMS	
<p>!    <u>Education</u>: elementary, middle, and high school offered.</p> <p>!    GED</p> <p>!    Special education needs are also assessed.</p> <p>!    <u>Vocational Education</u>: welding, small engine repair, construction, advanced construction, and cabinetry.</p>	<p>!    <u>Counseling</u>: family, individual and group meetings.</p> <p>!    <u>Treatment Groups</u> : behavior management, gang, parenting, fathers program, grief, coping skills, victim, cognitive reconstruction, chemical abuse, etc.</p> <p>!    Misc: The facility has three gymnasiums.</p>

JUVENILES SENTENCED AS ADULTS
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Bureau of Prisons  
**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Glen Mills Schools</b> Glen Mills Rd Concordville, Pennsylvania 19331	Director of Admissions- Bernard Kreig	(610) 459-8100 (800) 441-2064 Fax: (610) 558-1493

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Male, non-violent	Arson, depressed/suicidal, heavily medicated, sex offenders, or drug and/or alcohol addicted offenders

PROGRAMS	
<p><b>!</b> Educational Programs: basic skills, special education, pre-GED, GED instruction, a learning center and college preparatory courses, plus computer and science laboratories and a library. In the vocational area, there are 12 areas of concentration in which certificates of completion are awarded. Apprenticeship programs also available.</p> <p><b>!</b> Cultural/ Religious Programs: Field trips to museums, theaters, and historical site in the area, a campus movie theater, radio station, student government, and clubs are used extensively for student enrichment. Religious services area available on campus and in the community.</p>	<p><b>!</b> Recreation: Student union center, student lounge, bowling, gymnasium. Pool, bocci courts, lake, and summer camp are available. Glen Mills offers varsity and junior varsity sports including football, basketball, baseball, wrestling, track, soccer, street hockey, bowling, golf, tennis, power lifting, and lacrosse. Intramural sports are mandatory for all students.</p> <p><b>!</b> Treatment Programs: Daily guided group interaction sessions and individual counseling session address usage for students who were involved with drugs and/or alcohol on a recreational basis.</p>

JUVENILES SENTENCED AS ADULTS
G Yes    Q No <input type="checkbox"/> Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Loysville Youth Development Center</b> Rd 2, Box 365-B Loysville, PA 17047	Intake Officer- Barry Wilter	(717) 789-3841

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male   G Female   G Male and Female

OFFENDERS	
Accepted	Not Accepted
All offenders ages 12 to18.	Sex Offenders

PROGRAMS	
! <u>Education</u> : middle and high school. (West Perry school district.)	!   Treatment groups. (drug, victim impact, parenting, behavior and anger management, life skills, coping, etc.)
!   GED	! <u>Vocational</u> : engine shop, construction
! <u>Counseling</u> : family, group, and Individual.	

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes   Q No   G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>The Weaversville Intensive Treatment Unit</b> 6710 Weaversville Rd Northampton, Pennsylvania 19067	Director- Arthur Eisenbuch, Ph.D.,	(610) 262-1591 Fax: (610) 262-8164

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input checked="" type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Males aged 14 - 18. Persistent violent offenders.	

PROGRAMS	
<b>!</b> <u>Education:</u> Remedial basic, secondary, and GED <b>!</b> <u>Counseling:</u> Psycho educational assessments, individual counseling, group counseling, and family counseling.	<b>!</b> <u>Vocational Education:</u> Career awareness, job seeking, and job holding skills, values clarification and decision making. Also provided are engine repair, plumbing, carpentry, masonry, electrical wiring, and computer applications.

JUVENILES SENTENCED AS ADULTS
G Yes <input checked="" type="checkbox"/> No    G Case by Case Basis



Bureau of Prisons  
**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Chamberlain Academy</b> 211 West 16 <sup>th</sup> Avenue Chamberlain, South Dakota 27325	Director of Admissions Brian Harbets	9650) 734-5525 Fax: (605) 734-6889

SECURITY	HOUSING
G Secure <input checked="" type="checkbox"/> Non-Secure	G Male G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Males and females, 13 to 18. Sex offenders are accepted only if they have already been in treatment for the offense. (Exceptions on accepting sex offenders can be made.)	They also do not accept juveniles with a history of fire setting, severe or chronic history of psychotropic medication, or history of sexual perpetration.

PROGRAMS	
<p><b>!</b> <u>Educational Programs:</u> in-house school program with an alternative classroom setting dealing with regular and special students. They deal with low functioning students as well as those with learning disabilities. Students have the opportunity to obtain their GED as well as participating daily in the "world of work" program which is both classroom and hands on practical education.</p>	<p><b>▼</b> <u>Treatment Programs:</u> the core of their program is the "positive peer interaction" group based peer culture. The program is highly structured and has high expectations of both staff and students. Program components also include points, levels, anger management and victim awareness. Also offers an intense drug and alcohol component</p> <p><b>!</b> <u>Cultural/Religious Programs:</u> religious opportunities for the students. The facility is currently working to expand their cultural opportunities.</p>

JUVENILES SENTENCED AS ADULTS
G Yes Q No <input checked="" type="checkbox"/> Case by Case Basis

**8** They accept juveniles sentenced as adults, if they arrived at their facility before they turned 18 years of age. The juvenile can stay until the age of 21 and then will be transferred out.

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Custer Youth Correction Center (CYCC)</b> P.O. Box 151 Custer, South Dakota 57730	Superintendent - Doug Herman www.statesd.us	(605) 673-2521

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
This facility houses and treats delinquents in need of secure care.	

PROGRAMS	
! Education- Middle school, High school and GED. ! Counseling- Family, group and individual counseling. ! Treatment groups. (drug counseling, behavior management, parenting classes, street-gang intervention, life skills training, sex offender pretreatment, etc. Psychiatric and psychological counseling available if necessary.)	! Vocational Education- Carpentry.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>McCrossan Boys Ranch</b> 47135 260 <sup>th</sup> Street Sioux Falls, SD 57107	Admissions Counselor Ryan Kannas	(650) 339-1203 Fax: (605) 339-3144

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	<input type="checkbox"/> Male   G Female   G Male and Female

OFFENDERS	
Accepted	Not Accepted
Non-violent males from 10 to 21 or until completion of their educational program.	IQ below 70 (although they have clients in 60s, if chronically violent or impulsive in assaults, they won't be accepted.)

PROGRAMS	
<p>!   <u>Vocational Programs:</u> work experience in auto maintenance, small engine repair, welding, buildings and grounds maintenance and animal husbandry, small scale farming and livestock operation. Many of the juvenile attend rodeos with their animals.</p> <p>!   <u>Treatment Programs:</u> small group living and independent living skills, psychological counseling, problem solving, crisis intervention, and psychotherapy</p>	<p>!   <u>Educational Programs:</u> Sioux Falls, rural schools of a Tri-Valley, on-grounds educational facility. Participation in the education programs depends on the needs and behavior of the juvenile. Special education and GED are also available at on-site classrooms.</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes   Q No   G Case by Case Basis

Bureau of Prisons  
**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Our Home, Inc- Adolescent Sexual Adjustment Program</b> East Centennial Rd P.O. Box 156 Huron, South Dakota 57350	Program Coordinator- Gene Taylor	(605) 352-9098 Fax: (605) 352-0550

SECURITY	HOUSING
<input type="checkbox"/> G Secure <input checked="" type="checkbox"/> Non-Secure	<input checked="" type="checkbox"/> Male <input type="checkbox"/> G Female <input type="checkbox"/> G Male and Female

OFFENDERS	
Accepted	Not Accepted
Violent. Our Home provides treatment services to male, adolescent sex offenders ages 12 through 18 years.	

PROGRAMS	
<b>!</b> <u>Educational Programs:</u> academic services are provided by the Huron Public School District. These services are provided in a self-contained environment exclusively for our home juveniles. Limited mainstreaming can be arranged depending upon placement safety considerations. <b>!</b> <u>Treatment Programs:</u> the base philosophy of treatment services is that of the positive peer culture. Peer group meetings occur daily. Sexual adjustment groups two times weekly with a psychologist. Individual psychological services are assigned according to placement needs.	<b>!</b> Cultural/Religious Programs: a coordinator of cultural services helps assure that services are provided through culturally competent approaches. Sweat lodge ceremonies are held on program grounds. Juveniles attend community churches and local clergy provide spiritual support.

JUVENILES SENTENCED AS ADULTS
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Q No <input type="checkbox"/> G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Our Home, Inc-Group Care</b> 510 West Main Street P.O. Box 550 Parkston, South Dakota	Program Coordinator- Gene Taylor	(605) 928-7907

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male   G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Victims and perpetrators	

\* 39 maximum capacity.

PROGRAMS	
! Substance Abuse- AA/NA 12-step approach	! Public schools
! Positive Peer Culture (kids helping kids.)	

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes   Q No   G Case by Case Basis

\* Accept offenders under age 21 sentenced as adults.

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Our Home, Inc- Inhalant Abuse Treatment Center</b> 40354 210 <sup>th</sup> Street Huron, South Dakota 57350	Blaise Tomczak	(605) 353-1025

SECURITY	HOUSING
G Secure <input checked="" type="checkbox"/> Non-Secure	<input type="checkbox"/> Male G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders between the ages of 9 and 18 years.	Violent Offenders

PROGRAMS	
<b>!</b> <u>Education:</u> Middle and High School. <b>!</b> GED <b>!</b> <u>Counseling:</u> Family, Individual and Group.	<b>!</b> Treatment Groups: drug/alcohol, victim impact, behavior/anger management, psychiatric/psychological treatment. neuropsychological evaluations are given. <b>!</b> Cultural services.

JUVENILES SENTENCED AS ADULTS
G Yes <input checked="" type="checkbox"/> No G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Our Home, Inc. - Co-ED - Group Care Center</b> PO Box 550 Parkston, SD 57366	Gene Taylor	(605) 928-7907

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
12 -17 years of age	

PROGRAMS	
<ul style="list-style-type: none"> <li>▼ Middle and High school, GED and college prep courses - students are mainstreamed into public schools</li> <li>▼ Opportunity to obtain job through community resources</li> <li>▼ Counseling: group, individual and psychiatric and psychological services</li> </ul>	<ul style="list-style-type: none"> <li>▼ Drug/alcohol, victim impact, gang, and behavior/anger management</li> <li>▼ Sex offender program for females only</li> </ul>

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No <input type="checkbox"/> G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Our Home Rediscovery, Inc.</b> 510 Nebraska, SW Huron, South Dakota 57350	Program Coordinator Blaise Tomezak www.OurHomeInc.org	(605) 353-1025

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Drug and alcohol dependent offenders ages 12 to 18 years old.	Offenders without substance abuse. Other offenders are sent to one of the other two facilities affiliated with this facility.

PROGRAMS	
! <u>Education:</u> Middle and High school curriculum.	! Treatment programs. (drug and behavior programs.)
! <u>Counseling:</u> family, group and individual counseling.	! Positive peer Culture- This is group counseling amongst peers, topics vary.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No G Case by Case Basis



Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Kyle Juvenile Detention Center</b> P.O. Box 250 Kyle, South Dakota 57770	Supervisor- Shirley Dakota	(605) 455-2000

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Violent offenses Property offenses Age of offenders up to 21 yrs of age. This facility works with a Native American population but will take Non-Native Americans.	Sex offenders (sex offenders are accepted if they have successfully completed a sex offender program elsewhere)

PROGRAMS	
! <u>Education:</u> certified High school diploma, GED, College prep courses and educational assessment. ! <u>Treatment groups:</u> Drug/Alcohol, Life skills, Pre-employment	!    Sweat Lodge !    Recreation program- inside and out (all escorted)

JUVENILES SENTENCED AS ADULTS
<input checked="" type="checkbox"/> Yes    Q No    G Case by Case Basis

\* will take juveniles sentenced as adults, up to age 21.

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Western South Dakota Juvenile Service Center</b> 3505 S. Hwy 79 Rapid City, South Dakota 57701	Administrator - Carla Leveque e-mail: ktollefson@ourhomeinc.org	(605) 394-2639 fax (605) 928-7910

SECURITY	HOUSING
G Secure   G Non-Secure <input type="checkbox"/> Both	G Male   G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
offenders male and female ages 10 to 21 years of age.	

PROGRAMS	
<p>!    <u>Education:</u> Elementary, Middle, and high school.</p> <p>!    GED and college prep courses are available.</p> <p>!    <u>Counseling:</u> Individual counseling is offered as needed. Group therapy is held 5 times a week for one and one half-hour sessions. Family counseling is done when necessary.</p> <p>!    Alcohol and Drug counseling</p>	<p>!    Treatment groups: The youth are in direct contact with staff involved in teaching behavior, living and social skills, continued enhancement of step AA and Alateen, problem solving process, spirituality, etc.</p> <p>!    Job employment and education needs will be established according to need.</p>

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No   G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Shelby Training Center</b> 3420 Old Getwell Road Memphis, TN 38118	Administrator James B. Hall	(901) 795-1580

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input checked="" type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
All sentenced male juvenile offenders. However, the center is not available to conduct psychological studies for study and observation cases.	None

PROGRAMS	
! <u>Counseling or Treatment groups:</u> sex offender, Early intervention, Anger management, Parent Support group, substance abuse education and counseling, life skills, and conflict management programs.	!    GED Program !    Law-Related Education

JUVENILES SENTENCED AS ADULTS
<input checked="" type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Juvenile Detention Center</b> 4800 E. Rancier Killeen, Texas 76543	Superintendent- Kathy Keen www.Kathy.Keen@youth services.com	(254)690-7336

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Accepts all offenders from 10-21 years of age. Beds for 56 females and 8 males.	

PROGRAMS	
! <u>Education</u> : middle and high school curriculum. (They are in the process of establishing a GED program, as of February 2001.)	!    Re-socialization Program.( Cognitive Behavior based program.)
! <u>Counseling</u> : family, individual, and group counseling.	! <u>Extra Activities</u> : Drill and Dance

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Northwestern Regional Juvenile Detention Center</b> 1026 Fort Collier Road Winchester, VA 22638	Superintendent- Bob Hurt	(540) 722-6174

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Young adult offenders aged 17 and under.	Offenders sentenced to more than 6 months detention

PROGRAMS	
<b>!</b> <u>Education Programs:</u> Elementary, Middle, and High School. GED and College prep courses are also offered. <b>!</b> N.A.A. drug program	<b>!</b> <u>Counseling:</u> (generic) group counseling They provide for physical, emotional, religious, educational and social needs of juveniles during detainment.

JUVENILES SENTENCED AS ADULTS
G Yes <input type="checkbox"/> No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Ethan Allen School</b> P.O. Box 900 Wales, WI 53183-0900	Security Director- Joel Adams	(414) 646-3341 Fax: (414) 646-3761

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Male offenders aged 10 to 25.	None

PROGRAMS	
<b>!</b> <u>Educational Programs</u> : high school diploma or GED and remedial education. <b>!</b> <u>Treatment Programs</u> : nine cottages and three living units, each serving a particular type of offender with specialized programming.	<b>!</b> <u>Vocational Programs</u> : auto mechanics, business education, construction, woodworking, graphic arts, welding, etc.

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Lincoln Hills School</b> W 4380 Copper Lake Rd Irma, WI 54442	Superintendent Paul J. Westerhaus	(715) 536-8386 Fax: (715) 536-8236

SECURITY	HOUSING
<input type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male    G Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Males 12 to 19 years old.	

PROGRAMS	
<p>! <u>Treatment Programs:</u> 12 cottages and living units, each with different kinds of programming, including errors in thinking program, 12 step program aimed at providing the opportunity and tools to lead a life free of crime and chemical dependency.</p> <p>! <u>Cultural Awareness Programs:</u> Cultural Awareness and an Indian Tribes of Wisconsin Program for Native American students.</p>	<p>! <u>Educational Program:</u> competency-based curriculum for junior high, high school, GED for those over 17 whose likelihood of completing regular high school is small.</p> <p>! <u>Vocational Programs:</u> Business education, woodworking, building construction, nonferrous foundry, and food services.</p> <p>! <u>Cultural/Religious Programs:</u> weekly service, full-time chaplain</p>

JUVENILES SENTENCED AS ADULTS
<input type="checkbox"/> Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Southern Oaks Girls School</b> 21425B Spring Street Union Grove, Wisconsin 53182	Superintendent- Patricia Ogren	(262) 878-6510 .

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female    G Male and Female

OFFENDERS	
Accepted	Not Accepted
Offenders are exclusively juvenile females with a possible age range of 10 years old to 25 years old.	

PROGRAMS	
<p>! <u>Education:</u> Pre-Middle school, Middle School credits, High school credits, HSED (they have HSED programs instead of GED), and College Prep courses are correspondence.</p> <p>! <u>Counseling or Treatment groups:</u> Family, Group, Individual, Drug/Alcohol, Victim Impact, Sex Offender, Behavior/Anger management, Gang, Psychiatric/Psychological, Parenting classes.</p>	<p>! Other programs: Peer mentoring, Women's Issues, Sexuality, Independent Living Skills, Social Skills, Cognitive Interventions, Southern Oaks Adventure-Based Ropes and Challenge Program (SOAR), and Outback Camping on grounds.</p> <p>! Vocational Education: In-house vocational education includes business practices, computer skills, and basic foods.</p> <p>! They have organized sports and physical recreation or aerobics daily</p>

JUVENILES SENTENCED AS ADULTS
<input checked="" type="checkbox"/> Yes    Q No    G Case by Case Basis



Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
Juvenile Detention Center 201 N. David Third Floor Casper, WY 82601	Michael Bachert - Administrator	(307) 234-0057

SECURITY	HOUSING
<input checked="" type="checkbox"/> Secure    G Non-Secure	G Male    G Female <input checked="" type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
all types of offenders ages 12 to 18	

PROGRAMS	
<ul style="list-style-type: none"> <li>▼ Minimum of 4 hours of education per day -high school and GED</li> <li>▼ Group and individual counseling</li> <li>▼ Substance abuse education</li> </ul>	<ul style="list-style-type: none"> <li>▼ Life Skills</li> <li>▼ psychological assessments and intervention as needed</li> <li>▼ indoor gymnasium for recreation</li> </ul>

JUVENILES SENTENCED AS ADULTS
G Yes    Q No    G Case by Case Basis

Bureau of Prisons

**CONTRACT JUVENILE FACILITY**

INSTITUTION NAME/ADDRESS	CONTACT PERSON	PHONE NUMBER
<b>Thunder Child Treatment Center</b> <b>1000 Decker Road</b> <b>Sheridan, WY 82801</b>	Marcus Red Thunder - Patient Referral Coordinator	(303) 750-2255

SECURITY	HOUSING
G Secure <input type="checkbox"/> Non-Secure	G Male G Female <input type="checkbox"/> Male and Female

OFFENDERS	
Accepted	Not Accepted
Non-Native and Native American offenders with chemical dependency ages 12-18	

PROGRAMS
<ul style="list-style-type: none"> <li>▼ Drug and alcohol counseling</li> <li>▼ Group and individual counseling</li> <li>▼ Sweat lodge</li> </ul>

JUVENILES SENTENCED AS ADULTS
G Yes Q No G Case by Case Basis

## **CHAPTER IX - RELEVANT JUVENILE CASE LAW**

Supreme Court of the United States

UNITED STATES, Petitioner  
v.  
R.L.C.

No. 90-1577.

Argued Dec. 10, 1991.  
Decided March 24, 1992.

Juvenile was found to be delinquent by the United States District Court for the District of Minnesota, Harry H. McLaughlin, J., for conduct constituting involuntary manslaughter. Juvenile appealed. The Court of Appeals for the Eighth Circuit, 915 F.2d 320, vacated and remanded. Juvenile was resentenced and Government petitioned for writ of certiorari. The Supreme Court, Justice Souter, delivering the opinion of the Court as to Parts I, II-A and III, held that maximum sentence which could be imposed was maximum sentence that could be imposed if juvenile were being sentenced after application of United States Sentencing Guidelines, and, in opinion with respect to Parts II-B and II-C, joined by Chief Justice Rehnquist and Justices White and Stevens, held that if any ambiguity about a sentencing statute's intended scope survives after analysis of its legislative history, construction yielding shorter sentence would be chosen under rule of lenity.

Court of Appeals affirmed.

Justice Scalia, with whom Justices Kennedy and Thomas joined, issued opinion concurring in part and concurring in judgment.

Justice Thomas issued opinion concurring in part and concurring in judgment.

Justice O'Connor, with whom Justice Blackmun joined, issued dissenting opinion.

West Headnotes

[1] Infants ☞ 247  
211k247

Government's challenge to reduction of detention imposed on juvenile was not moot, even though juvenile had served reduced term; juvenile had not completed original term and there was possibility that

remainder of it could be imposed.

[2] Infants ☞ 223.1  
211k223.1  
(Formerly 211k223)

[2] Statutes ☞ 199  
361k199

Plain meaning analysis of section of Juvenile Delinquency Act requiring length of official detention in certain circumstances to be limited to "maximum term of imprisonment that would be authorized" if juvenile had been convicted as adult, did not require that "authorized" refer to maximum term of imprisonment provided for by statute defining offense; at least equally consistent was construction that "authorized" referred to result of applying all statutes with required bearing on sentencing decision, including not only those that empower court to sentence but those that limit legitimacy of its exercise of that power, including statute which requires application of Sentencing Guidelines and caps adult sentence at top of relevant guideline range, absent circumstances warranting departure. 18 U.S.C.A. § 5037(c)(1)(B); U.S.S.G. § 1B1.1 et seq., 18 U.S.C.A.App.

[3] Statutes ☞ 241(1)  
361k241(1)

If any ambiguity in sentencing statute survives after examination of legislative history, court chooses construction yielding shorter sentence by resting on venerable rule of lenity. (Per Justice Souter, joined by Chief Justice Rehnquist and Justices White and Stevens, with Justices Scalia, Kennedy, and Thomas concurring in part and concurring in judgment.)

[4] Infants ☞ 223.1  
211k223.1  
(Formerly 211k223)

Section of Juvenile Delinquency Act permitting detention for period not to exceed "maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult" refers to maximum length of sentence to which similarly situated adult would be subject if convicted of adult counterpart of offense and sentenced under statute requiring application of Sentencing Guidelines, and, although determining maximum permissible sentence

will require sentencing and reviewing courts to determine appropriate guideline range in juvenile-delinquency proceedings, it does not require plenary application of Guidelines to juvenile delinquents; where that statutory provision applies, sentencing court's concern with Guidelines goes solely to upper limit of proper guideline range as setting maximum term for which juvenile may be committed to official detention, absent circumstances that would warrant departure. 18 U.S.C.A. §§ 3553(b), 5037(c)(1)(B); U.S.S.G. § 1B1.1 et seq., 18 U.S.C.A.App.

**\*\*1330 Syllabus [FN\*]**

**FN\*** The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

Because certain conduct of respondent R.L.C. at age 16 would have constituted the crime of involuntary manslaughter under 18 U.S.C. §§ 1112(a) and 1153 if committed by an adult, the District Court held that he had committed an act of juvenile delinquency within the meaning of the Juvenile Delinquency Act. In light of a provision of that Act requiring the length of official detention in certain circumstances to be limited to "the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult," § 5037(c)(1)(B), the court committed R.L.C. to detention for three years, the maximum sentence for involuntary manslaughter under § 1112(b). Reading § 5037(c)(1)(B) to bar a juvenile term longer than the sentence a court could impose on a similarly situated adult after **\*\*1331** applying the United States Sentencing Guidelines, and finding that the Guidelines would yield a maximum sentence of 21 months for an adult in R.L.C.'s circumstances, the Court of Appeals vacated his sentence and remanded for resentencing.

**Held:** The judgment is affirmed.

915 F.2d 320 (CA8 1990), affirmed.

Justice SOUTER delivered the opinion of the Court with respect to Parts I, II- A, and III, concluding:

1. Plain-meaning analysis does not compel adoption of the Government's construction that the word "authorized" in § 5037(c)(1)(B) must refer to the maximum term of imprisonment provided for by the statute defining the offense. At least equally consistent, and arguably more natural, is the

construction that "authorized" refers to the result of applying all statutes with a required bearing on the sentencing decision, including not only those that empower the court to sentence but those that limit the legitimacy of its exercise of that power, including § 3553(b), which requires application of the Guidelines and caps an adult sentence at the top of the relevant Guideline range, absent circumstances warranting departure. Thus, the most that can be said from examining the text in its present form is that the Government may claim its preferred construction to be one possible resolution of statutory ambiguity. P. 1334.

**\*292** 2. The § 5037(c)(1)(B) limitation refers to the maximum sentence that could be imposed if the juvenile were being sentenced after application of the Guidelines. Although determining the maximum permissible sentence under § 5037(c)(1)(B) will require sentencing and reviewing courts to determine an appropriate Guideline range in juvenile-delinquency proceedings, it does not require plenary application of the Guidelines to juvenile delinquents. Where the statutory provision applies, a sentencing court's concern with the Guidelines goes solely to the upper limit of the proper Guideline range as setting the maximum term for which a juvenile may be committed to official detention, absent circumstances that would warrant departure under § 3553(b). Pp. 1338-1339.

Justice SOUTER, joined by THE CHIEF JUSTICE, Justice WHITE, and Justice STEVENS, delivered an opinion with respect to Parts II-B and II-C, concluding that:

1. The textual evolution of § 5037(c)(1)(B) and the relevant legislative history reinforce the conclusion that the section is better understood to refer to the maximum sentence permitted under § 3553(b). Whereas the predecessor of § 5037(c) spoke in terms of the "maximum term which could have been imposed on *an adult*" (emphasis added), the current version's reference to "the juvenile," on its face suggests a change in reference from abstract considerations to a focused inquiry into the circumstances of the particular juvenile. Although an intervening version referred to the maximum sentence "that would be authorized by *section 3581(b)* if the juvenile had been tried and convicted as an adult" (emphasis added), the emphasized language was quickly deleted, resulting in the present statutory text. The legislative history demonstrates that Congress intended the deletion to conform juvenile and adult

maximum sentences, in that § 3581(b), which catalogs such sentences for federal offenses by reference to their relative seriousness, could in some circumstances have appeared to authorize a longer sentence for a juvenile than an adult would have received. Absent promulgation of the Guidelines, the deletion might have left the question of the "authorized" maximum to be determined by reference to the penalty provided by the statute creating the offense. However, Congress' purpose today can be achieved only by reading "authorized" to refer to the maximum sentence that may be imposed consistently with § 3553(b), which will generally provide a ceiling more favorable to the juvenile than that contained in the offense-defining statute. It hardly seems likely that Congress adopted the current § 5037(c) without intending the recently enacted Guidelines scheme to be considered for \*\*1332 the purpose of conforming juvenile and adult sentences. Pp. 1334-1338.

**\*293** 2. No ambiguity about the statute's intended scope survives the foregoing analysis, but, if any did, the construction yielding the shorter sentence would be chosen under the rule of lenity. That rule's application is unnecessary in this case, however, since this Court has "always reserved lenity for those situations in which a reasonable doubt persists about a statute's intended scope even *after* resort to 'the language and structure, legislative history, and motivating policies' of the statute." *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 465, 112 L.Ed.2d 449 (citation omitted). P. 1338.

Justice SCALIA, joined by Justice KENNEDY and Justice THOMAS, concluded that it is not consistent with the rule of lenity to construe a textually ambiguous penal statute against a criminal defendant on the basis of legislative history. Once it is determined that the statutory text is ambiguous, the rule requires that the more lenient interpretation prevail. In approving reliance on a statute's "motivating policies," *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 465, seems contrary to *Hughey v. United States*, 495 U.S. 411, 422, 110 S.Ct. 1979, 1985, 109 L.Ed.2d 408. And insofar as *Moskal* requires consideration of legislative history at all, it compromises the purposes of the lenity rule: to assure that criminal statutes provide fair warning of what conduct is rendered illegal, see, e.g., *McBoyle v. United States*, 283 U.S. 25, 27, 51 S.Ct. 340, 341, 75 L.Ed. 816, and to assure that society, through its representatives, has genuinely called for the punishment to be meted out, see e.g., *United States v. Bass*, 404 U.S. 336, 348, 92 S.Ct. 515, 522, 30

L.Ed.2d 488. While the Court has considered legislative history in construing criminal statutes before, it appears that only one case, *Dixson v. United States*, 465 U.S. 482, 104 S.Ct. 1172, 79 L.Ed.2d 458, has relied on legislative history to "clarify" an ambiguous statute against a criminal defendant's interest. *Dixson* does not discuss the implications of its decision, and both of the cases it cites in supposed support of its holding found the statute at hand *not* to be facially ambiguous. Pp. 1339-1341.

Justice THOMAS agreed with Justice SCALIA that the use of legislative history to construe an otherwise ambiguous penal statute against a criminal defendant is difficult to reconcile with the rule of lenity. The rule operates, however, only if ambiguity remains even after a court has applied established principles of construction to the statutory text. See, e.g., *Chapman v. United States*, 500 U.S. 453, 463, 111 S.Ct. 1919, 1926, 114 L.Ed.2d 524. Although knowledge of these principles is imputed to the citizenry, there appears scant justification for also requiring knowledge of extralegal materials such as legislative history. Pp. 1341-1342.

SOUTER, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II-A, and III, in which \*294 REHNQUIST, C.J., and WHITE, STEVENS, SCALIA, KENNEDY, and THOMAS, JJ., joined, and an opinion with respect to Parts II-B and II-C, in which REHNQUIST, C.J., and WHITE and STEVENS, JJ., joined. SCALIA, J., filed an opinion concurring in part and concurring in the judgment, in which KENNEDY and THOMAS, JJ., joined, *post*, p. 1339. THOMAS, J., filed an opinion concurring in part and concurring in the judgment, *post*, p. 1341. O'CONNOR, J., filed a dissenting opinion, in which BLACKMUN, J., joined, *post*, p. 1342.

Paul J. Larkin, Jr., Washington, D.C., for petitioner.

Katherian D. Roe, Minneapolis, Minn., for respondent.

Justice SOUTER announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II-A, and III, and an opinion with respect to Parts II-B and II-C, in which THE CHIEF JUSTICE, Justice WHITE, and Justice STEVENS join.

The provisions of the Juvenile Delinquency Act require the length of official detention in \*\*1333

certain circumstances to be limited to "the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult." 18 U.S.C. § 5037(c)(1)(B). We hold that this limitation refers to the maximum sentence that could be imposed if the juvenile were being sentenced after application of the United States Sentencing Guidelines.

## I

Early in the morning of November 5, 1989, after a night of drinking, the then- 16-year-old respondent R.L.C. and another juvenile stole a car with which they struck another automobile, fatally injuring one of its passengers, 2-year-old La Tesha Mountain. R.L.C. is a member of the Red Lake Band of Chippewa Indians, and these events took place on the Red Lake Indian Reservation, which is within Indian \*295 country as defined by federal law. These circumstances provide federal jurisdiction in this case. See 18 U.S.C. §§ 1151, 1162, 1153. Upon certifying that a proceeding was authorized in federal court under § 5032 on the ground that no state court had jurisdiction over the offense, the Government charged R.L.C. with an act of juvenile delinquency.

After a bench trial, the District Court found R.L.C. to be a juvenile who had driven a car recklessly while intoxicated and without the owner's authorization, causing Mountain's death. R.L.C. was held to have committed an act of juvenile delinquency within the meaning of § 5031, since his acts would have been the crime of involuntary manslaughter in violation of §§ 1112(a) and 1153 if committed by an adult. The maximum sentence for involuntary manslaughter under 18 U.S.C. § 1112(b) is three years. At R.L.C.'s dispositional hearing, the District Court granted the Government's request to impose the maximum penalty for respondent's delinquency and accordingly committed him to official detention for three years.

Despite the manslaughter statute's provision for an adult sentence of that length, the United States Court of Appeals for the Eighth Circuit, vacated R.L.C.'s sentence and remanded for resentencing, after concluding that 36 months exceeded the cap imposed by § 5037(c)(1)(B) upon the period of detention to which a juvenile delinquent may be sentenced. 915 F.2d 320 (1990). Although the statute merely provides that juvenile detention may not extend beyond "the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult," [FN1] the \*296 Court of Appeals read this language to bar a juvenile term

longer than the sentence a court could have imposed on a similarly situated adult after applying the United States Sentencing Guidelines. Under the Guidelines, involuntary manslaughter caused by recklessness has a base offense level of 14. United States Sentencing Commission, Guidelines Manual § 2A1.4(a)(2) (Nov.1991). The court found, and the Government agrees, see Brief for United States 22, n. 5, that because R.L.C. had the lowest possible criminal history level, Category I, the Guidelines would yield a sentencing range of 15-21 months for a similarly situated adult. The Court of Appeals therefore concluded that the maximum period of detention to which R.L.C. could be sentenced was 21 months.

FN1. Title 18 U.S.C. § 5037(c) provides:

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend-- "(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of--

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old--

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) in any other case beyond the lesser of--

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult."

**\*\*1334** [1] The Government sought no stay of mandate from the Court of Appeals, and on remand the District Court imposed detention for 18 months. Although R.L.C. has now served this time, his failure to complete the 3-year detention originally imposed and the possibility that the remainder of it could be imposed saves the case from mootness. See *United States v. Villamonte- Marquez*, 462 U.S. 579, 581, n. 2, 103 S.Ct. 2573, 2575, n. 2, 77 L.Ed.2d 22 (1983). We granted the Government's petition for certiorari, 501 U.S. 1230, 111 S.Ct. 2850, 115 L.Ed.2d 1018 (1991), to resolve the conflict between the Eighth Circuit's holding in this case and the Ninth Circuit's position, adopted in *United States v. Marco L.*, 868 F.2d 1121, \*297 cert. denied, 493 U.S. 956, 110 S.Ct. 369, 107 L.Ed.2d 355 (1989), and endorsed by the Government.

## II

A

[2] The Government suggests a straightforward enquiry into plain meaning to explain what is "authorized." It argues that the word "authorized" must mean the maximum term of imprisonment provided for by the statute defining the offense, since only Congress can "authorize" a term of imprisonment in punishment for a crime. As against the position that the Sentencing Guidelines now circumscribe a trial court's authority, the Government insists that our concern must be with the affirmative authority for imposing a sentence, which necessarily stems from statutory law. It maintains that in any event the Sentencing Commission's congressional authorization to establish sentencing guidelines does not create affirmative authority to set punishments for crime, and that the Guidelines do not purport to authorize the punishments to which they relate.

But this is too easy. The answer to any suggestion that the statutory character of a specific penalty provision gives it primacy over administrative sentencing guidelines is that the mandate to apply the Guidelines is itself statutory. See 18 U.S.C. § 3553(b). More significantly, the Government's argument that "authorization" refers only to what is affirmatively provided by penal statutes, without reference to the Sentencing Guidelines to be applied under statutory mandate, seems to us to beg the question. Of course it is true that no penalty would be "authorized" without a statute providing specifically for the penal consequences of defined criminal activity. The question, however, is whether Congress intended the courts to treat the upper limit of such a penalty as "authorized" even when proper application of a statutorily mandated Guideline in an adult case would bar imposition up to the limit, and an unwarranted upward departure \*298 from the proper Guideline range would be reversible error. § 3742. Here it suffices to say that the Government's construction is by no means plain. The text is at least equally consistent with treating "authorized" to refer to the result of applying all statutes with a required bearing on the sentencing decision, including not only those that empower the court to sentence but those that limit the legitimacy of its exercise of that power. This, indeed, is arguably the more natural construction.

Plain-meaning analysis does not, then, provide the Government with a favorable answer. The most that can be said from examining the text in its present form is that the Government may claim its preferred

construction to be one possible resolution of statutory ambiguity.

B

On the assumption that ambiguity exists, we turn to examine the textual evolution of the limitation in question and the legislative history that may explain or elucidate it. [FN2] The \*299 predecessor of § 5037(c) as included \*\*1335 in the Juvenile Justice and Delinquency Prevention Act of 1974 provided that a juvenile adjudged delinquent could be committed to the custody of the Attorney General for a period "not [to] extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on *an adult* convicted of the same offense, whichever is sooner." 18 U.S.C. § 5037(b) (1982 Ed.) (emphasis added). In its current form, the statute refers to the "maximum term of imprisonment that would be authorized if *the juvenile had been tried and convicted as an adult.*" 18 U.S.C. § 5037(c) (emphasis added). On its face, the current language suggests a change in reference from abstract consideration of the penalty permitted in punishment of the adult offense, to a focused enquiry into the maximum that would be available in the circumstances of the particular juvenile before the court. The intervening history supports this reading.

FN2. R.L.C. argues that the broader statutory purpose supports his position. He contends that longer juvenile sentences are only justified by a rehabilitative purpose. See, e.g., *Carter v. United States*, 113 U.S.App.D.C. 123, 125, 306 F.2d 283, 285 (1962) (imposing a longer juvenile sentence under the now-repealed Youth Corrections Act) ("[R]ehabilitation may be regarded as comprising the *quid pro quo* for a longer confinement but under different conditions and terms than a defendant would undergo in an ordinary prison"). He then suggests that the Sentencing Reform Act rejected the rehabilitative model not merely for adult imprisonment, see *Mistretta v. United States*, 488 U.S. 361, 366-367, 109 S.Ct. 647, 651- 652, 102 L.Ed.2d 714 (1989), but for juveniles as well. See Brief for Respondent 19. While it is true that some rehabilitative tools were removed from the juvenile penalty scheme in 1984, see Pub.L. 98-473, § 214(b), 98 Stat. 2014 (abolishing parole for juvenile delinquents), the Juvenile Delinquency Act does not completely reject rehabilitative objectives. See, e.g., 18 U.S.C. §§ 5035, 5039. We do



not think a broader congressional purpose points clearly in either party's direction.

With the Sentencing Reform Act of 1984 (chapter II of the Comprehensive Crime Control Act of 1984, Pub.L. 98-473, § 214(a), 98 Stat. 2013), § 5037 was rewritten. As § 5037(c)(1)(B), its relevant provision became "the maximum term of imprisonment that would be authorized by *section 3581(b)* if the juvenile had been tried and convicted as an adult." 18 U.S.C. §§ 5037(c)(1)(B), (c)(2)(B)(ii) (1982 Ed., Supp. II) (emphasis added). The emphasized language was quickly deleted, however, by the Criminal Law and Procedure Technical Amendments Act of 1986, Pub.L. 99-646, § 21(a)(2), 100 Stat. 3596 (Technical Amendments Act), resulting in the present statutory text, "the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult." It thus lost the reference to § 3581(b), which would have guided the sentencing court in identifying the "authorized" term of imprisonment.

**\*300** R.L.C. argues that this loss is highly significant. Section 3581(b) [FN3] was, and still is, part of a classification system adopted in 1984 for use in setting the incidents of punishment for federal offenses by reference to letter grades reflecting their relative seriousness. One provision, for example, sets the maximum period of supervised release for each letter grade. § 3583. Section 3581(b) sets out the maximum term of imprisonment for each letter grade, providing, for instance, that the authorized term of imprisonment for a class C felony is not more than 12 years, for a class D not more than 6, and for a class E not more than 3.

FN3. "(b) AUTHORIZED TERMS.--The authorized terms of imprisonment are-- "(1) for a Class A felony, the duration of the defendant's life or any period of time;  
"(2) for a Class B felony, not more than twenty-five years;  
"(3) for a Class C felony, not more than twelve years;  
"(4) for a Class D felony, not more than six years;  
"(5) for a Class E felony, not more than three years;  
"(6) for a Class A misdemeanor, not more than one year;  
"(7) for a Class B misdemeanor, not more than six months;  
"(8) for a Class C misdemeanor, not more than thirty days; and  
"(9) for an infraction, not more than five days." 18

U.S.C. § 3581.

The deletion of the reference to § 3581(b) with its specific catalog of statutory maximums would seem to go against the Government's position. Since, for example, a juvenile who had committed what would have **\*\*1336** been an adult class E felony would apparently have been subject to three years of detention, because § 3581(b) "authorized" up to three years of imprisonment for an adult, the deletion of the reference to § 3581(b) would appear to indicate some congressional intent to broaden the range of enquiry when determining what was authorized. [FN4]

FN4. We speak here of an indication appearing solely from the face of the text. In fact, so far as we can tell, at the time of the amendment no federal statute defining an offense referred to it by letter grade.

The Government, however, finds a different purpose, disclosed in the section- by-section analysis prepared by the Department **\*301** of Justice to accompany the bill that became the Technical Amendments Act. The Department's analysis included this explanation for the proposal to delete the reference to § 3581(b): "Because of the effect of 18 U.S.C. § 3559(b)(2), deleting the reference to 18 U.S.C. § 3581(b) will tie the maximum sentences for juveniles to the maximum for adults, rather than making juvenile sentences more severe than adult sentences." 131 Cong.Rec. 14177 (1985). Congress had enacted § 3559 to reconcile the new sentencing schedule, providing for the incidents of conviction according to the offense's assigned letter grade, with the pre-existing body of federal criminal statutes, which of course included no assignments of letter grades to the particular offenses they created. Section 3559(a) provides a formula for assigning the missing letter based on the maximum term of imprisonment set by the statute creating the offense. Thus, as it stood at the time of the Technical Amendments Act, it read:

"(a) Classification

"An offense that is not specifically classified by a letter grade in the section defining it, is classified--

"(1) if the maximum term of imprisonment authorized is--

"(A) life imprisonment, or if the maximum penalty is death, as a Class A felony;

"(B) twenty years or more, as a Class B felony;

"(C) less than twenty years but ten or more years, as a Class C felony;

"(D) less than ten years but five or more years, as a Class D felony;

"(E) less than five years but more than one year, as a Class E felony;

"(F) one year or less but more than six months, as a Class A misdemeanor;

"(G) six months or less but more than thirty days, as a Class B misdemeanor;

**\*302** "(H) thirty days or less but more than five days, as a Class C misdemeanor; or

"(I) five days or less, or if no imprisonment is authorized, as an infraction.

"(b) Effect of classification

"An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation except that:

"(1) the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this chapter, whichever is the greater; and

"(2) the maximum term of imprisonment is the term authorized by the statute describing the offense." 18 U.S.C. § 3559 (1982 Ed., Supp. II).

The Government explains that limiting the length of a juvenile detention to that authorized for an adult under § 3581(b) could in some circumstances have appeared to authorize a longer sentence than an adult could have received, when the offense involved was assigned no letter grade in its defining statute. Thus an offense created without letter grade and carrying a maximum term of two years would be treated under § 3559(a) as a Class E felony. Section 3581(b) provides that a Class E felony carried a maximum of three years. Regardless of that classification, § 3559(b)(2) would certainly preclude sentencing any adult offender to more than two years. Tension would arise, however, where a juvenile had committed the act constituting the offense. Insofar as § 5037(c) capped the juvenile detention by reference to **\*\*1337** what was authorized for an adult, the maximum would have been two years; but insofar as it capped it by reference to what was authorized by § 3581(b), the limit might have appeared to be three. It was to break this tension, according to the Government, that the reference to § 3581(b) was deleted guaranteeing that no juvenile would be given detention longer than the maximum adult sentence authorized by the **\*303** statute creating the offense. The amendment also, the Government says, left the law clear in its reference to the statute creating the offense as the measure of an "authorized" sentence. This conclusion is said to be confirmed by a statement in the House Report that the amendment "delet[es an] incorrect cross-referenc[e]," H.R.Rep. No. 99-797, p. 21, U.S.Code Cong. & Admin.News 1986, p. 6138 (1986), which, the Government argues, "suggests that no substantive

change was intended." Brief for United States 20, n. 4.

We agree with the Government's argument up to a point. A sentencing court could certainly have been confused by the reference to § 3581(b). A sentencing judge considering a juvenile defendant charged with an offense bearing no letter classification, and told to look for "the maximum term of imprisonment that would be authorized [according to letter grade] by section 3581(b)," would have turned first to § 3559(a) to obtain a letter classification. The court perhaps would have felt obliged to ignore the provision of § 3559(b) that "the maximum term of imprisonment is the term authorized by the statute describing the offense" in favor of a longer term provided for by the appropriate letter grade in § 3581(b). Indeed, the sentencing judge would have been faced with this puzzle in virtually every case, since the system of classifying by letter grades adopted in 1984 was only to be used in future legislation defining federal criminal offenses. See Brief for United States 16. No federal offense on the books at the time the Sentencing Reform Act of 1984 was adopted carried a letter grade in its defining statute, and Congress has used the device only rarely in the ensuing years.

Thus, while it included a reference to § 3581(b), § 5037(c) was ambiguous. This ambiguity was resolved by an amendment that, absent promulgation of the Guidelines, might have left the question of the "authorized" maximum term of imprisonment to be determined only by reference to the penalty provided by the statute creating the offense, whether **\*304** expressed as a term of years or simply by reference to letter grade. The legislative history does not prove, however, that Congress intended "authorized" to refer solely to the statute defining the offense despite the enactment of a statute requiring application of the Sentencing Guidelines, a provision that will generally provide a ceiling more favorable to the juvenile than that contained in the offense-defining statute.

Indeed, the contrary intent would seem the better inference. The Justice Department analysis of the Criminal Law and Procedure Technical Amendments Act of 1986, upon which the Government relies, went on to say that "deleting the reference to 18 U.S.C. § 3581(b) will tie the maximum sentences for juveniles to the maximum for adults, rather than making juvenile sentences more severe than adult sentences." 131 Cong.Rec. 14177 (1985). This is an expression of purpose that today can be achieved only by reading "authorized" to refer to the maximum period of

(Cite as: 503 U.S. 291, \*304, 112 S.Ct. 1329, \*\*1337)

imprisonment that may be imposed consistently with 18 U.S.C. § 3553(b). That statute provides that "[t]he court shall impose a sentence ... within the range" established for the category of offense as set forth in the Guidelines, "unless the court finds that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described." § 3553(b).

The point is reinforced by other elements of the legislative history. The Senate Report \*\*1338 accompanying the 1986 Technical Amendments Act states that the amendment "makes clear that juvenile sentences are to be of equal length as those for adult offenders committing the same crime." S.Rep. No. 99-278, p. 3 (1986). This, in turn, reflects the statement in the Senate Report accompanying the Sentencing Reform Act, that the changes in juvenile sentencing law were included "in order to conform it to the changes made in adult sentencing laws." S.Rep. No. 98-225, p. 155 (1983), U.S.Code Cong. & Admin.News, 1984, pp. 3182, 3338. \*305 The most fundamental of the Sentencing Reform Act's changes was, of course, the creation of the Sentencing Commission, authorized to promulgate the guidelines required for use by sentencing courts. It hardly seems likely that Congress adopted the current § 5037(c) with a purpose to conform juvenile and adult maximum sentences without intending the recently authorized Guidelines scheme to be considered for that purpose. The legislative history thus reinforces our initial conclusion that § 5037 is better understood to refer to the maximum sentence permitted under the statute requiring application of the Guidelines. [FN5]

FN5. The dissent takes us to task for reliance upon a "technical amendment." But a statute is a statute, whatever its label. Although the critical congressional enactment, the deletion of the reference to § 3581(b), came in the Technical Amendments Act, we have applied the usual tools of statutory construction: the language left in the statute after its amendment in 1986 is most naturally read to refer to the term of imprisonment authorized after application of the statute mandating use of the Guidelines. The legislative history of the Technical Amendments Act reinforces this conclusion.

C

[3] We do not think any ambiguity survives. If any did, however, we would choose the construction yielding the shorter sentence by resting on the

venerable rule of lenity, see, e.g., *United States v. Bass*, 404 U.S. 336, 347-348, 92 S.Ct. 515, 522-523, 30 L.Ed.2d 488 (1971), rooted in " 'the instinctive distaste against men languishing in prison unless the lawmaker has clearly said they should,' " *id.*, at 348, 92 S.Ct., at 523 (quoting H. Friendly, *Benchmarks* 209 (1967)). While the rule has been applied not only to resolve issues about the substantive scope of criminal statutes, but to answer questions about the severity of sentencing, see *Bifulco v. United States*, 447 U.S. 381, 387, 100 S.Ct. 2247, 2252, 65 L.Ed.2d 205 (1980), its application is unnecessary in this case, since "we have always reserved lenity for those situations in which a reasonable doubt persists about a statute's intended scope even *after* resort to 'the language and structure, legislative history, and motivating policies' of the \*306 statute." *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 465, 112 L.Ed.2d 449 (1990) (citation omitted). [FN6]

FN6. Justice SCALIA questions the soundness of *Moskal*'s statement that we have reserved lenity for those cases (unlike this one) in which after examining "the ... structure, legislative history, and motivating policies," in addition to the text of an ambiguous criminal statute, we are still left with a reasonable doubt about the intended scope of the statute's application. But the Court has not in the past approached the use of lenity in the way Justice SCALIA would have it.

It is true that the need for fair warning will make it "rare that legislative history or statutory policies will support a construction of a statute broader than that clearly warranted by the text," *Crandon v. United States*, 494 U.S. 152, 160, 110 S.Ct. 997, 1002-03, 108 L.Ed.2d 132 (1990), and that "general declarations of policy," whether in the text or the legislative history, will not support construction of an ambiguous criminal statute against the defendant, *Hughey v. United States*, 495 U.S. 411, 422, 110 S.Ct. 1979, 1985, 109 L.Ed.2d 408 (1990). But lenity does not always require the "narrowest" construction, and our cases have recognized that a broader construction may be permissible on the basis of nontextual factors that make clear the legislative intent where it is within the fair meaning of the statutory language. See *Dixson v. United States*, 465 U.S. 482, 500-501, n. 19, 104 S.Ct. 1172, 1181-1182, n. 19, 79 L.Ed.2d 458 (1984). Cf. *McBoyle v. United States*, 283 U.S. 25, 27, 51 S.Ct. 340, 341, 75 L.Ed. 816 (1931) (a criminal statute should be construed in such a way that its language gives "fair warning" to the "common mind"). Whether lenity should

be given the more immediate and dispositive role Justice SCALIA espouses is an issue that is not raised and need not be reached in this case.

**\*\*1339 III**

[4] We hold, therefore, that application of the language in § 5037(c)(1)(B) permitting detention for a period not to exceed "the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult" refers to the maximum length of sentence to which a similarly situated adult would be subject if convicted of the adult counterpart of the offense and sentenced under the statute requiring application of the Guidelines, § 3553(b). Although determining the maximum permissible sentence under § 5037(c)(1)(B) will therefore require sentencing and reviewing courts to determine an appropriate Guideline range in juvenile-delinquency proceedings, we emphasize \*307 that it does not require plenary application of the Guidelines to juvenile delinquents. [FN7] Where that statutory provision applies, a sentencing court's concern with the Guidelines goes solely to the upper limit of the proper Guideline range as setting the maximum term for which a juvenile may be committed to official detention, absent circumstances that would warrant departure under § 3553(b).

FN7. The Sentencing Guidelines, of course, do not directly apply to juvenile-delinquency proceedings. We observe that 28 U.S.C. § 995(a)(19), also enacted as part of the Sentencing Reform Act of 1984, gives the Sentencing Commission power to "study the feasibility of developing guidelines for the disposition of juvenile delinquents." The Government reports that the Sentencing Commission has recently begun such a study. See Brief for United States 11, n. 1.

The judgment of the Court of Appeals is

*Affirmed.*

Justice SCALIA, with whom Justice KENNEDY and Justice THOMAS join, concurring in part and concurring in the judgment.

In my view it is not consistent with the rule of lenity to construe a textually ambiguous penal statute against a criminal defendant on the basis of legislative history. Because Justice SOUTER's opinion assumes the contrary, I join only Parts I, II-A, and III, and concur in the judgment.

The Court begins its analysis, quite properly, by examining the language of 18 U.S.C. § 5037(c)(1)(B) --which proves to be ambiguous. Reasonable doubt remains, the Court concludes, as to whether the provision refers (i) to the maximum punishment that could be imposed if the juvenile were being sentenced under the United States Sentencing Guidelines (15-21 months) or (ii) to the maximum punishment authorized by the statute defining the offense, see 18 U.S.C. § 1112(a) (36 months). *Ante*, at 1334. With that conclusion I agree--and that conclusion should end the matter. The rule of lenity, in my view, prescribes the result when a criminal \*308 statute is ambiguous: The more lenient interpretation must prevail.

Yet the plurality continues. Armed with its warrant of textual ambiguity, the plurality conducts a search of § 5037's legislative history to determine whether that clarifies the statute. Happily for *this* defendant, the plurality's extratextual inquiry is benign: It uncovers evidence that the "better understood" reading of § 5037 is the more lenient one. *Ante*, at 1338. But this methodology contemplates as well a different ending, one in which something said in a Committee Report causes the criminal law to be stricter than the text of the law displays. According to the plurality, "[We] have always reserved [the rule of] lenity those situations in which a reasonable doubt persists about a statute's intended scope even *after* resort to 'the language and structure, legislative history, and motivating policies' of the statute." *Ante*, at 1338 (quoting *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 465, 112 L.Ed.2d 449 (1990) (citation omitted)). I doubt that *Moskal* accurately characterizes the law in this area, and I am certain that its treatment of "the venerable rule of lenity," *ante*, at 1338, does not venerate the important values the old rule serves.

The *Moskal* formulation of the rule, in approving reliance on a statute's "motivating \*\*1340 policies" (an obscure phrase), seems contrary to our statement in *Hughey v. United States*, 495 U.S. 411, 422, 110 S.Ct. 1979, 1985, 109 L.Ed.2d 408 (1990), that "[e]ven [where] the statutory language ... [is] ambiguous, longstanding principles of lenity ... preclude our resolution of the ambiguity against [the criminal defendant] on the basis of general declarations of policy in the statute and legislative history." And insofar as *Moskal* requires consideration of legislative history *at all*, it compromises what we have described to be purposes of the lenity rule. "[A] fair warning," we have said, "should be given to the world in language that the common world will understand, of what the law

(Cite as: 503 U.S. 291, \*308, 112 S.Ct. 1329, \*\*1340)

intends to do if a certain line is passed. To make the warning fair, so far as possible the line \*309 should be clear." *McBoyle v. United States*, 283 U.S. 25, 27, 51 S.Ct. 340, 341, 75 L.Ed. 816 (1931). "[T]he rule of lenity ensures that criminal statutes will provide fair warning concerning conduct rendered illegal." *Liparota v. United States*, 471 U.S. 419, 427, 105 S.Ct. 2084, 2089, 85 L.Ed.2d 434 (1985). It may well be true that in most cases the proposition that the words of the United States Code or the Statutes at Large give adequate notice to the citizen is something of a fiction, see *McBoyle, supra*, 283 U.S., at 27, 51 S.Ct., at 341, albeit one required in any system of law; but necessary fiction descends to needless farce when the public is charged even with knowledge of Committee Reports.

*Moskal's* mode of analysis also disservices the rule of lenity's other purpose: assuring that the society, through its representatives, has genuinely called for the punishment to be meted out. "[B]ecause of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity." *United States v. Bass*, 404 U.S. 336, 348, 92 S.Ct. 515, 523, 30 L.Ed.2d 488 (1971). See also *Liparota, supra*, 471 U.S., at 427, 105 S.Ct., at 2089; *United States v. Wiltberger*, 5 Wheat. 76, 95, 5 L.Ed. 37 (1820). The rule reflects, as the plurality acknowledges, " 'the instinctive distaste against men languishing in prison unless the lawmaker has clearly said they should.' " *Ante*, at 1338 (quoting *Bass, supra*, 404 U.S., at 348, 92 S.Ct., at 523, and H. Friendly, *Benchmarks* 209 (1967)). But legislative history can never provide assurance against that unacceptable result. After all, "[a] statute is a statute," *ante*, at 1338, n. 5, and no matter how "authoritative" the history may be—even if it is that veritable Rosetta Stone of legislative archaeology, a crystal clear Committee Report—one can never be sure that the legislators who voted for the text of the bill were aware of it. The only thing that was authoritatively adopted *for sure* was the text of the enactment; the rest is *necessarily* speculation. Where it is doubtful whether the text includes the penalty, the penalty ought not be imposed. "[T]he moral condemnation of the community," *Bass, supra*, at 348, 92 S.Ct., at 523, is no more reflected \*310 in the views of a majority of a single committee of congressmen (assuming, of course, they have genuinely considered what their staff has produced) than it is reflected in the views of a majority of an appellate court; we should feel no less concerned about "men languishing

in prison" at the direction of the one than of the other.

We have in a number of cases other than *Moskal* done what the plurality has done here: inquired into legislative history and invoked it to support or at least permit the more lenient reading. But only once, to my knowledge, have we relied on legislative history to "clarify" a statute, explicitly found to be facially ambiguous, against the interest of a criminal defendant. In *Dixson v. United States*, 465 U.S. 482, 500-501, n. 19, 104 S.Ct. 1172, 1181-1182, n. 19, 79 L.Ed.2d 458 (1984), the Court relied on legislative history to determine that defendants, officers of a corporation responsible for administering federal block grants, were "public officials" within the meaning of 18 U.S.C. § 201(a). The \*\*1341 opinion does not trouble to discuss the "fair warning" or "condemnation of the community" implications of its decision, and both of the cases it cites in supposed support of its holding found the statute at hand *not* to be facially ambiguous. See *United States v. Moore*, 423 U.S. 122, 131, 96 S.Ct. 335, 340, 46 L.Ed.2d 333 (1975) ("By its terms § 841 reaches 'any person' " and "does not exempt (as it could have) 'all registrants' or 'all persons registered under this Act' "); *United States v. Brown*, 333 U.S. 18, 22, 68 S.Ct. 376, 378, 92 L.Ed. 442 (1948) ("The legislation reflects an unmistakable intention to provide punishment for escape or attempted escape to be superimposed upon the punishment meted out for previous offenses. This appears from the face of the statute itself."). I think *Dixson* weak (indeed, utterly unreasoned) foundation for a rule of construction that permits legislative history to satisfy the ancient requirement that criminal statutes speak "plainly and unmistakably," *United States v. Gradwell*, 243 U.S. 476, 485, 37 S.Ct. 407, 411, 61 L.Ed. 857 (1917); see also *Bass, supra*, 404 U.S., at 348, 92 S.Ct., at 522.

In sum, I would not embrace, as the plurality does, the *Moskal* formulation of this canon of construction, lest lower \*311 courts take the dictum to heart. I would acknowledge the tension in our precedents, the absence of an examination of the consequences of the *Moskal* mode of analysis, and the consequent conclusion that *Moskal* may not be good law.

Justice THOMAS, concurring in part and concurring in the judgment.

I agree with Justice SCALIA that the use of legislative history to construe an otherwise ambiguous penal statute against a criminal defendant is difficult to

(Cite as: 503 U.S. 291, \*311, 112 S.Ct. 1329, \*\*1341)

reconcile with the rule of lenity. I write separately, however, to emphasize that the rule is not triggered merely because a statute appears textually ambiguous *on its face*. Just last Term, we reaffirmed that the rule operates only " 'at the end of the process' " of construction, *Chapman v. United States*, 500 U.S. 453, 463, 111 S.Ct. 1919, 1926, 114 L.Ed.2d 524 (1991) (quoting *Callanan v. United States*, 364 U.S. 587, 596, 81 S.Ct. 321, 326, 5 L.Ed.2d 312 (1961)), if ambiguity remains "even after a court has 'seize[d] every thing from which aid can be derived,' " *ibid.* (quoting *United States v. Bass*, 404 U.S. 336, 347, 92 S.Ct. 515, 522, 30 L.Ed.2d 488 (1971)), in turn quoting *United States v. Fisher*, 2 Cranch 358, 386, 2 L.Ed. 304 (1805)). Thus, although we require Congress to enact "clear and definite" penal statutes, *United States v. Universal C.I.T. Credit Corp.*, 344 U.S. 218, 221-222, 73 S.Ct. 227, 229-230, 97 L.Ed. 260 (1952), we also consult our own "well-established principles of statutory construction," *Gozlon-Peretz v. United States*, 498 U.S. 395, 410, 111 S.Ct. 840, 849, 112 L.Ed.2d 919 (1991), in determining whether the relevant text is clear and definite. See, e.g., *id.*, at 404, 111 S.Ct., at 846 (applying the rule in *Arnold v. United States*, 9 Cranch 104, 119-120, 3 L.Ed. 671 (1815), that statutes become effective immediately); *Albernaz v. United States*, 450 U.S. 333, 337-342, 101 S.Ct. 1137, 1141-1144, 67 L.Ed.2d 275 (1981) (applying the rule in *Blockburger v. United States*, 284 U.S. 299, 304, 52 S.Ct. 180, 182, 76 L.Ed. 306 (1932), to establish the permissibility of multiple punishments).

These cases, I think, demonstrate that we must presume familiarity not only with the United States Code, see *ante*, at 1340, but also with the United States Reports, in which we have developed innumerable rules of construction powerful \*312 enough to make clear an otherwise ambiguous penal statute. Cf. *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843, n. 9, 104 S.Ct. 2778, 2781, n. 9, 81 L.Ed.2d 694 (1984) ("clear congressional intent" may be discerned by application of "traditional tools of statutory construction"). Like Congress' statutes, the decisions of this Court are law, the knowledge of which we have always imputed to the citizenry. At issue here, though, is a rule that would also require \*\*1342 knowledge of committee reports and floor statements, which are not law. I agree with Justice SCALIA that there appears scant justification for extending the "necessary fiction" that citizens know the law, see *ante*, at 1339-1340, to such extralegal materials.

Justice O'CONNOR, with whom Justice BLACKMUN joins, dissenting.

By failing to interpret 18 U.S.C. § 5037(c)(1)(B) in light of the statutory scheme of which it is a part, the Court interprets a "technical amendment" to make sweeping changes to the process and focus of juvenile sentencing. Instead, the Court should honor Congress' clear intention to leave settled practice in juvenile sentencing undisturbed.

When Congress enacted the Sentencing Reform Act of 1984, it authorized the United States Sentencing Commission (Sentencing Commission or Commission) to overhaul the discretionary system of adult sentencing. As an important aspect of this overhaul, Guidelines sentencing formalizes sentencing procedures. The Commission explains:

*"In pre-guidelines practice, factors relevant to sentencing were often determined in an informal fashion. The informality was to some extent explained by the fact that particular offense and offender characteristics rarely had a highly specific or required sentencing consequence. This situation will no longer exist under sentencing guidelines. The court's resolution of disputed sentencing factors will usually have a measurable effect on the applicable punishment. More formality \*313 is therefore unavoidable if the sentencing process is to be accurate and fair."* United States Sentencing Commission, Guidelines Manual, § 6A1.3, comment (Nov.1991) (USSG).

Another significant change permits an appeal when the Guidelines are incorrectly applied or departed from, 18 U.S.C. § 3742; under prior law, a sentence within statutory limits was not generally subject to review, *United States v. Tucker*, 404 U.S. 443, 447, 92 S.Ct. 589, 591, 30 L.Ed.2d 592 (1972). Thus, factual findings made at adult sentencing hearings can be challenged on appeal.

When Congress made these fundamental changes in sentencing, it repealed the Youth Corrections Act, Pub.L. 98-473, Title II, § 218(a)(8), 98 Stat. 2027 (1984), which gave special treatment to defendants under 22. Congress did not, however, repeal the Juvenile Delinquency Act, which applies to defendants under 18, and clearly indicated that the Commission was only to *study* the feasibility of sentencing guidelines for juveniles, see 28 U.S.C. §§ 995(a)(1)-(a)(9), a process which is still in progress. Brief for United States 11, n. 1. Thus, Congress did not

(Cite as: 503 U.S. 291, \*313, 112 S.Ct. 1329, \*\*1342)

intend the Guidelines to apply to juveniles. Section 5037(c)(1)(B) must be interpreted against this backdrop.

Before the Sentencing Reform Act, § 5037(c)(1)(B) limited juvenile sentences by the correlative adult statutory maximum. As part of the Sentencing Reform Act, Congress made clear that this past practice would remain the same by limiting juvenile sentences to: "the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult," 18 U.S.C. § 5037(c)(1)(B) (1982 Ed., Supp. II) (emphasis added). The reference to § 3581(b), which classifies offenses and sets out maximum terms, clarified that the statutory maximum of the offense, not the Guideline maximum, would still limit the juvenile's sentence. Thus, consonant with its decision to leave juvenile sentencing in place, Congress did not change \*314 § 5037(c)(1)(B) to require sentencing judges in juvenile cases to calculate Guideline maximum sentences.

As the plurality acknowledges, *ante*, at 1335-1337, the cross-reference to § 3581(b) added by the Sentencing Reform Act created a new ambiguity as to whether the maximum sentence referred to was that authorized in the particular offense statute, or in the offense \*\*1343 classification statute. To resolve the ambiguity, the cross-reference was deleted in 1986 as one of numerous technical amendments. The Court reads this technical amendment as changing § 3581's reference from the statutory maximum to the *Guideline* maximum, even though before the amendment the statute clearly did *not* refer to the Guideline maximum. While the original version of § 5037(c)(1)(B) was ambiguous in other respects, there was never any question that § 5037(c)(1)(B) referred to the adult statutory maximum. There is no indication that Congress intended to change pre-existing practice. Section 5037(c)(1)(B), read in this context, still unambiguously refers to the statutory maximum. And because § 5037(c)(1)(B) is unambiguous in this respect, the rule of lenity does not apply here. *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 465, 112 L.Ed.2d 449 (1990) (Court may look to structure of statute to ascertain the sense of a provision before resorting to rule of lenity). The Court, however, construes § 5037(c)(1)(B) to change pre-existing practice only by reading it in a vacuum apart from the rest of the Sentencing Reform Act, thus violating the canon of construction that "the words of a statute must be read in their context and with a view to their place in the

overall statutory scheme." *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 809, 109 S.Ct. 1500, 1504, 103 L.Ed.2d 891 (1989).

The practical implications of the Court's reading demonstrate why its construction runs contrary to Congress' decision not to apply the Guidelines to juveniles. Requiring a district court to calculate a Guideline maximum for each juvenile imports formal factfinding procedures foreign to the discretionary sentencing system Congress intended to retain. \*315 Juvenile proceedings, in contrast to adult proceedings, have traditionally aspired to be "intimate, informal [and] protective." *McKeiver v. Pennsylvania*, 403 U.S. 528, 545, 91 S.Ct. 1976, 1986, 29 L.Ed.2d 647 (1971). One reason for the traditional informality of juvenile proceedings is that the focus of sentencing is on treatment, not punishment. The presumption is that juveniles are still teachable and not yet "hardened criminals." S.Rep. No. 1989, 75th Cong., 3d Sess., 1 (1938). See *McKeiver, supra*; 18 U.S.C. § 5039 ("Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community"). As a result, the sentencing considerations relevant to juveniles are far different from those relevant to adults.

The Court asserts, naively it seems to me, that it is not requiring "plenary application" of the Guidelines, *ante*, at 1339, and makes the process of determining the Guideline maximum seem easy—a court need only look at the offense the juvenile was found guilty of violating and his criminal history, *ante*, at 1333. In practice, however, calculating a Guideline maximum is much more complicated. Even in this relatively straightforward case, respondent was said to have stolen the car he was driving. Although apparently not placed in issue at the sentencing hearing, that conduct might, if proven and connected to the offense of which respondent was convicted, enhance the applicable Guideline maximum as "relevant conduct." See USSG § 1B1.3. Respondent's role in the offense might also warrant an adjustment of the Guideline maximum. §§ 3B1.1, 3B1.2. The District Court made a determination that respondent had not accepted responsibility, and that finding changed the calculation of the Guideline maximum. Tr. 3 (Jan. 25, 1991), § 3E1.1. The District Court also had to take into account factors not considered by the Guidelines in determining whether or not a departure was warranted, which would increase or decrease the "maximum" sentence by an indiscernible "reasonable" amount. Tr. 3-4, 18 U.S.C. § 3553(b).

(Cite as: 503 U.S. 291, \*316 , 112 S.Ct. 1329, \*\*1343)

In short, the Guidelinemaximum \*316 is not static or readily ascertainable, but depends on particularized findings of fact and discretionary determinations made by the sentencing judge.

**\*\*1344** These determinations may even require adversarial evidentiary hearings. Yet such formal factual investigations are not provided for by the Juvenile Delinquency Act. There is no indication in the statute that the judge is required to support the sentence with particular findings. USSG § 6A1.3 and Federal Rule of Criminal Procedure 32(a)(1), as amended after the Guidelines, do provide for an adversarial sentencing procedure for adults that accommodates Guideline factfinding. Rule 32 does not apply when it conflicts with provisions of the Juvenile Delinquency Act, however, see Fed.Rule Crim.Proc. 54(b)(5), and it seems to me a serious question whether adversarial factfinding is what Congress had in mind for juvenile sentencing. An even more serious question is whether Congress intended juveniles to be able to appeal the findings of fact that determine the Guideline maximum. Yet the Court's decision would seem to require provision for such appeals.

In addition, a Guideline maximum for an adult incorporates factors the Sentencing Commission has found irrelevant to juvenile sentencing, see, *e.g.*, USSG § 4B1.1 (career offender status inapplicable to defendants under 18), and does not incorporate factors Congress has found relevant to juvenile sentencing, see, *e.g.*, USSG §§ 5H1.1, 5H1.6 (age and family ties

irrelevant to Guideline sentencing). As a result, the Guideline maximum for an adult cannot serve as a useful point of comparison. In sum, the cumbersome process of determining a comparable Guideline maximum threatens to dominate the juvenile sentencing hearing at the expense of considerations more relevant to juveniles.

I cannot infer that Congress meant to overhaul and refocus the procedures of juvenile sentencing in such a fundamental way merely by deleting a cross-reference in a technical amendment, especially when Congress expressly left juvenile \*317 sentencing out of the scope of the Sentencing Reform Act and directed the Commission to examine how sentencing guidelines might be tailored to juveniles.

This case is admittedly unusual in that respondent was sentenced to a longer sentence than a similarly situated adult. Before the Guidelines were enacted, however, such anomalies were not unknown: A juvenile could receive a longer sentence than a similarly situated adult, as long as the sentence was within the statutory maximum. We should not try to address the disparity presented in this particular case by changing all juvenile sentencing in ways that Congress did not intend. Instead, we should wait for the Sentencing Commission and Congress to decide whether to fashion appropriate guidelines for juveniles. For this reason, I respectfully dissent.

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District Court of the Virgin Islands, Division of St.  
Thomas and St. John.

**UNITED STATES of America, Plaintiff,**  
**v.**

**D.H. (A Juvenile), Defendant.**

**Crim. No. 95-37.**

July 2, 1998.

Government sought modification of sentence of juvenile previously committed as delinquent under Federal Juvenile Delinquency Act. The District Court, Moore, Chief Judge, denied motion, 999 F.Supp. 748, and on motion for reconsideration held that: (1) juvenile was not "person entitled to credit for presentence time served" as calculated by Bureau of Prisons, and (2) denial of credit did not result in sentencing disparity.

Motion denied.

West Headnotes

**[1] Prisons** ⚙️ **15(3)**  
310k15(3)

Attorney General's statutory authority to determine credit for presentence time served, as delegated to Bureau of Prisons (BOP), only applies to prisoners entitled to such pre-sentence credit, that is, adult defendants sentenced as adults. 18 U.S.C.A. § 3585(b).

**[2] Infants** ⚙️ **223.1**  
211k223.1

Juvenile committed as delinquent under Federal Juvenile Delinquency Act was not "person entitled to credit for presentence time served" as calculated by Bureau of Prisons; prosecution of juvenile resulted in adjudication of status, juvenile was placed in official detention, offenses were not crimes, portion of Act incorporating certain adult sentencing provisions did not include adult provision for presentence credit, and acts for which juvenile was committed as delinquent were so heinous, violent and senseless as to warrant imposition of maximum term of detention allowed by law. 18 U.S.C.A. §§ 3585(b), 5037.

**[3] Infants** ⚙️ **223.1**  
211k223.1

Federal sentencing laws do not apply to offenses for which juvenile is committed as delinquent pursuant to Federal Juvenile Delinquency Act; juvenile delinquency is status rather than crime, and juvenile offenses are not crimes, but are violations of law which would have been crimes if committed by adults. 18 U.S.C.A. §§ 3551, 3585, 5031.

**[4] Infants** ⚙️ **223.1**  
211k223.1

Detention order which denied juvenile committed as delinquent under Federal Juvenile Delinquency Act credit against detention for pre-sentence time served did not result in sentencing disparity, where juvenile would have received much longer sentence had he been tried and convicted as adult. 18 U.S.C.A. §§ 3585(b), 5037.

**\*473** Kim Chisolm, Assistant U.S. Attorney, for Plaintiff.

Iver Stridiron, St. Thomas, VI, for Defendant.

## MEMORANDUM

MOORE, Chief Judge.

## INTRODUCTION

The government moves to reconsider the Court's Order denying a motion to correct judgment in which the Court re-emphasized its denial of pre-sentence credit to a juvenile committed as delinquent under the Federal Juvenile Delinquency Act. The government argues that the Attorney General of the United States has the sole authority to determine presentence credit matters, citing *United States v. Wilson*, 503 U.S. 329, 112 S.Ct. 1351, 117 L.Ed.2d 593 (1992) and that the Court failed to recognize the criminal nature of juvenile detention.

## Authority of the Attorney General

[1][2] This Court does not contest the idea that the United States Attorney General has the authority to determine credit for presentence time served by an adult, under 18 U.S.C. § 3585(b), nor does the Court gainsay that this authority has been delegated to the Bureau of Prisons ["BOP"]. What the Court ruled and here reiterates is that this only applies to a prisoner who is entitled to such pre-sentence credit, *i.e.*, an adult defendant who was sentenced as an adult. By its very terms section 3585 applies only to a "defendant." A juvenile committed under the Federal

Juvenile Delinquency Act is not a person entitled to such credit. [FN1]

FN1. Moreover, an adult offender sentenced under 18 U.S.C. § 3585(b) has a right to **judicial review** of his credit. *U.S. v. Wilson*, 503 U.S. 329, 337, 112 S.Ct. 1351, 117 L.Ed.2d 593 (Stevens, J., dissenting) (citing *Chua Han Mow v. United States*, 730 F.2d 1308, 1313 (9th Cir.1984)), *cert. denied*, 470 U.S. 1031, 105 S.Ct. 1403, 84 L.Ed.2d 790 (1985). Thus, the sentencing court is not divested of all authority even in adult cases. The government attached to its motion Policy Statement 7600.51 of the BOP, apparently dated October 30, 1969. The BOP adopted uncited opinions that the Bail Reform Act, which provided for pre-sentence credit, applied to Youth Corrections Act commitments. The Youth Corrections Act has been repealed and there is no basis to extend interpretations of that act to the new act.

**\*474** The government attempts to attach some meaning to the fact that the Juvenile Delinquency Act is codified within the federal Criminal Code, Title 18, United States Code, and that certain terms, such as "official detention" are used both in section 3585 and section 5037. The Government chooses to ignore that with juveniles, "prosecution results in an adjudication of status--not a criminal conviction." *United States v. Brian N.*, 900 F.2d 218, 220 (10th Cir.1990). This would also ignore the whole purpose of treating minors as juveniles to take them out of the criminal process and avoid the stigma of a criminal conviction. It is similarly specious for the Government to contend that D.H. is a "defendant" who "is serving a sentence for a federal crime in a federal penal facility." (Mot. for Recons. at 2.) D.H. categorically is not a "defendant." D.H. is an adjudicated juvenile delinquent. While he is in official detention, he is not serving a "sentence" for a federal crime. D.H. is being detained because he admitted to committing acts of juvenile delinquency, any one of which "would have been a crime if committed by an adult." 18 U.S.C. § 5031 (emphasis added).

[3] Section 3551 requires a "defendant who has been found guilty of an offense described in any Federal statute" to be sentenced per Chapter 227 in Part II of Title 18, United States Code, which includes section 3585. Section 3585 applies to "defendant" serving a sentence imposed for the "commission of an offense." "Offense" is not an act of "juvenile delinquency," rather "juvenile delinquency" is a "violation of a law of the United States committed by a person prior to

his eighteenth birthday which would have been a crime if committed by an adult or a violation by such a person [a juvenile] of § 922(x)." 18 U.S.C. § 5031. D.H. was committed to official detention under section 5037 as a juvenile whom the Court found to have committed acts of juvenile delinquency. Since he is not in official detention under a sentence after being found guilty of a criminal offense, section 3585 does not apply and he is not entitled to presentence credit.

Section 5037 contains the dispositional provisions for juvenile delinquency proceedings and is set forth in Chapter 403 in Part IV of Title 18. Chapter 403 maintains the distinction between criminal proceedings against adults and juvenile delinquency proceedings for the correction of persons under the age of 18. Thus, section 5037 applies to a juvenile who has been found to have committed an act of juvenile delinquency. It was therefore necessary for Congress to specify those provisions of the adult criminal code which could be considered by the court at the juvenile delinquency dispositional hearing. Specifically incorporated in section 5037 are policy statements of the Sentencing Commission promulgated under 28 U.S.C. § 994, restitution per 18 U.S.C. § 3556, and the provisions of Chapter 207 of the adult criminal code for release or detention pending appeal. Certain portions of the Probation subchapter of chapter 227 on criminal sentencing are applied to limit the probation which may be imposed on a juvenile: "the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult." 5037(b)(1)(B) and (b)(2)(B). The adult conditions of probation, running of the term of probation, and revocation of probation, 18 U.S.C. §§ 3563, 3564, 3565, respectively, are also made applicable to the juvenile disposition. Similarly, the adult **postsentence** administrative provision for release of section 3624, including credit for "good time" served after disposition is made "applicable to an order placing a juvenile under detention." 18 U.S.C. § 5037(c).

Significantly, the provision for credit for time served in pretrial custody of 3585 is **not** one of those specifically included. Upon examination, this exclusion of an automatic credit for time service makes sense in the juvenile context. The dispositional alternatives available to the Court in a juvenile proceeding are already severely limited by the age of the juvenile at time of disposition and an absolute maximum of five years if the minor has been convicted as an adult of a Class A, B, or C felony. 18 U.S.C. § 5037(c)(2)(A). In some instances of

particularly violent acts of juvenile delinquency, the Court may conclude that the interests of justice require the detention of the juvenile for the full five years past the dispositional hearing. This is the case here. The heinous, violent and senseless acts for which D.H. was found delinquent warranted punishment of much more than the maximum of five years allowed by the federal juvenile delinquency provisions. Indeed, his adult co-\*475 defendants were each sentenced to twenty-five years on the federal and territorial offenses, to run consecutively with each other for a total of fifty years in prison! The idea that D.H. should get the benefit of credit for time served before disposition, in addition to the tremendous leniency he has already received by being treated as a juvenile, is obscene.

#### **Criminal Nature/Maximum Term**

[4] The government's second contention is that the criminal nature of imposing a sentence for juvenile delinquency requires strict construction, and that the maximum term a juvenile offender can receive for acts of federal juvenile delinquency can be no more than what he would actually have received as an adult for the same acts. See *United States v. R.L.C.*, 503 U.S. 291, 112 S.Ct. 1329, 117 L.Ed.2d 559 (1992), *aff'g* 915 F.2d 320 (8th Cir.1990). This would turn the rules of statutory construction on their heads. It is precisely because an act of juvenile delinquency is not a crime that the maximum limits of adult punishment must be imported specifically into the dispositional provisions for juveniles.

Moreover, the government's position fails to consider that this is not a case of sentencing disparity between a juvenile and an adult, in which an adult could potentially serve less time for these same acts because of pre-sentence credit under section 3585. As has already been discussed, were this juvenile offender to be tried and sentenced as an adult for his murderous acts he would have received a **much** greater sentence, even with pre-sentence credit. Those committing these acts alongside D.H. received greater sentences by a factor of ten. This is the reason the Court insisted and insists the D.H. serve his full period of "official detention."

#### **CONCLUSION**

The juvenile is not entitled to pre-sentence credit and therefore the BOP has no authority to determine such. There is no sentencing disparity in such a crime since the juvenile would have received a greater sentence if an adult. Therefore, the motion to reconsider will be denied.

#### **ORDER**

For the reasons stated in the preceding Memorandum, it is hereby

**ORDERED** that the government's motion to reconsider is **DENIED**.

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United States Court of Appeals,  
Ninth Circuit.

**UNITED STATES of America, Plaintiff-Appellee,**  
v.

**John DOE, Defendant-Appellant.**  
**UNITED STATES of America, Plaintiff-Appellee,**  
v.

**John DOE, Defendant-Appellant.**

**Nos. 94-30092, 94-30190.**

Argued and Submitted Feb. 10, 1995.  
Decided May 11, 1995.

On appeal from sentencing orders of the United States District Court for the Western District of Washington, Thomas S. Zilly, J., the Court of Appeals, Cynthia Holcomb Hall, Circuit Judge, held that Juvenile Delinquency Act does not permit an adjudicated juvenile delinquent to be sentenced to supervised release in addition to a term of official detention.

Vacated and remanded with instructions.

Wiggins, Circuit Judge, filed concurring opinion.

West Headnotes

**[1] Criminal Law** ⚖️ **1130(.5)**  
110k1130(.5)

**[1] Criminal Law** ⚖️ **1132**  
110k1132

Court of Appeals would not consider whether defendant waived his right to attack his sentence by not appealing at time of sentencing, where government did not argue waiver in its briefs or at oral argument, but in fact specifically urged Court of Appeals to reach merits of appeal.

**[2] Infants** ⚖️ **221**  
211k221

Successful prosecution under the Juvenile Delinquency Act results in a civil adjudication of status, not a criminal conviction. 18 U.S.C.A. §§ 5031- 5042.

**[3] Infants** ⚖️ **225**  
211k225

Juvenile Delinquency Act does not permit an adjudicated juvenile delinquent to be sentenced to supervised release in addition to a term of official detention. 18 U.S.C.A. §§ 5031-5042.

**[4] Infants** ⚖️ **225**  
211k225

Reference in the Juvenile Delinquency Act to administrative provision governing release of adult prisoners from federal detention does not suggest that legislature intended to make supervised release a permissible sentencing option for juvenile delinquents. 18 U.S.C.A. §§ 3624, 5037(c).

**\*1081** Carol Koller and Peter Offenbecher, Asst. Federal Public Defenders, Seattle, WA, for defendant-appellant.

Mark N. Bartlett, Asst. U.S. Atty., Seattle, WA, for plaintiff-appellee.

Appeals from the United States District Court for the Western District of Washington.

Before: WRIGHT, HALL, and WIGGINS, Circuit Judges.

Opinion by Judge HALL; Concurrence by Judge WIGGINS.

CYNTHIA HOLCOMB HALL, Circuit Judge:

We face a question of first impression under the Juvenile Delinquency Act (the "Juvenile Act"), 18 U.S.C. §§ 5031-5042. We must decide whether an adjudicated juvenile delinquent may be sentenced to a term of supervised release. We conclude that he may not.

## I.

Appellant John Doe [FN1] is a member of the Sauk-Suitle tribe. Early in the summer of 1989, he killed a woman on the Sauk-Suitle reservation in western Washington. He was 17 years old at the time of the killing.

FN1. Appellant's true identity is protected under 18 U.S.C. § 5038(e).

The government sought to try Appellant as an adult. The district court, however, denied **\*1082** the government's motion to transfer the case to adult court. See 18 U.S.C. § 5032. The district court

held a stipulated facts trial, at the conclusion of which it found Appellant guilty of the delinquent act of second degree murder. The district court sentenced Appellant to five years of official detention, the maximum sentence authorized by statute. See 18 U.S.C. § 5037(c)(2)(a). It also gave him a five-year term of supervised release.

At the sentencing hearing, Appellant's attorney argued that the Juvenile Act did not authorize supervised release and that Appellant's sentence was illegal insofar as it imposed a term of supervised release. The district court rejected the attack. It reminded Appellant, however, that he had a right to appeal his sentence to this Court. Appellant did not appeal. Nor did he file a 28 U.S.C. § 2255 petition to correct his sentence.

Instead, Appellant spent without complaint the entire term of his official detention, minus time for good behavior, at a juvenile facility in North Dakota. He was released from detention on October 27, 1993 at the age of 21 and immediately began serving his term of supervised release. Within a few weeks, however, he violated the terms of his release by using alcohol, failing to report to his probation officer, and failing to notify his probation officer of a change in address. Appellant was arrested and jailed in an adult facility. At a subsequent hearing, Appellant admitted the violations but again challenged the legality of his sentence to supervised release. The district court rejected Appellant's challenge and issued an order modifying the terms of his release. The modification required that Appellant reside for eight months in a community correction center. Appellant timely appealed, arguing that the district court had no authority to modify the terms of his supervised release because the sentence itself was illegal.

While this appeal was pending, Appellant began his eight-month community treatment stay. Within a few weeks, he again violated the terms of his release, this time by using alcohol and leaving his treatment facility without permission. He was arrested on May 14, 1994. Once again he appeared before the district court and attacked the legality of his sentence, and once again the district court rebuffed the challenge. This time, the district court revoked Appellant's supervised release and sentenced him to a four-year term of incarceration in an adult facility. The district court, over objection, filed its judgment and commitment under Appellant's real name. Appellant timely appealed. We ordered the case consolidated with his earlier appeal.

The district court had jurisdiction under the Juvenile Act and pursuant to 18 U.S.C. § 1153. We have jurisdiction of this appeal pursuant to 28 U.S.C. § 1291.

## II.

[1] We must first decide whether Appellant has waived his right to attack his sentence to supervised release. The problem is that he did not appeal at the time of sentencing. Instead, he waited until his supervised release was revoked before bringing the legality of his sentence up on appeal. The question is whether he ought to be able to proceed. The parties did not address the waiver question in their briefs. We raise it *sua sponte*.

Waiver does not divest the Court of jurisdiction it otherwise enjoys. See *Oklahoma City v. Tuttle*, 471 U.S. 808, 815-16, 105 S.Ct. 2427, 2431-32, 85 L.Ed.2d 791 (1985); *United States v. Flores-Payon*, 942 F.2d 556, 558 (9th Cir.1991) (noting circumstances in which we will review claims otherwise waived for failure to raise them in district court). Waiver is a creature of judicial policy, informed in this purely federal context by concerns of fairness, finality, and economy.

We have carved out special rules to govern the problem of waiver. One of these rules is directly applicable here. As we noted in *United States v. Schlesinger*, "[t]his court will not address waiver if not raised by the opposing party." 49 F.3d 483, 485 (9th Cir.1995) (addressing waiver issue in context of 28 U.S.C. § 2255 motion); see also *Fagan v. Washington*, 942 F.2d 1155, 1157 (7th Cir.1991) (similar); *United States v. Lewis*, 798 F.2d 1250 (9th Cir.1986) (refusing to address waiver when government failed to argue waiver in its briefs or at oral argument) \*1083 (*amending United States v. Lewis*, 787 F.2d 1318 (9th Cir.1986)).

Here, the government did not argue waiver in its briefs or at oral argument. In fact, counsel for the government at oral argument specifically urged the Court to reach the merits of this appeal. Under these circumstances, we conclude that the government has "waived" any waiver argument it may have had. See *Fagan v. Washington*, 942 F.2d at 1157 (holding that government "waived [its] waiver" argument by failing to raise it). We will address on the merits Appellant's claim of illegal sentence.

### III.

[2] The Juvenile Act created a statutory enclave for juveniles accused of criminal misconduct. Among other things, the Act shields juveniles from the ordinary criminal justice system and gives them protective treatment not available to adults accused of the same crimes. *See* 18 U.S.C. §§ 5031- 5042. A successful prosecution under the Act, for example, results in a civil adjudication of status, not a criminal conviction. *United States v. Frasquillo-Zomosa*, 626 F.2d 99, 101 (9th Cir.), *cert. denied*, 449 U.S. 987, 101 S.Ct. 405, 66 L.Ed.2d 249 (1980). In addition, juveniles adjudged delinquent under the Act often receive far more lenient treatment than their adult counterparts. *See* 18 U.S.C. § 5037 (setting out sentencing options).

[3] The question in this case is whether the Act permits an adjudicated juvenile delinquent to be sentenced to supervised release in addition to a term of official detention. Appellant contends that it does not. He argues that the district court therefore had no authority to jail him for violating the terms of his supervised release. We agree.

[4] The Juvenile Act offers four sentencing alternatives for adjudicated juvenile delinquents: (1) a suspended finding of delinquency; (2) restitution; (3) probation; or (4) official detention. *Id.* at § 5037(a). Nothing in the Act authorizes supervised release as a sentencing option. Although the government admits that the Act does not expressly provide for supervised release, the government urges us to read such a provision into the Act. According to the government, the Act's reference to 18 U.S.C. § 3624 suggests that the legislature intended to make supervised release a permissible sentencing option for juvenile delinquents. [FN2] The government reads far too much into this passing reference.

FN2. The last line of § 5037(c), which prescribes the maximum term of official detention for juvenile delinquents, provides that "[s]ection 3624 is applicable to an order placing a juvenile under detention." 18 U.S.C. § 5037(c).

Section 3624 is an administrative provision governing the release of adult prisoners from federal detention. It provides such logistical details as the day of the week that prisoners should be released and the procedures for giving credit for good behavior. 18 U.S.C. § 3624(a)-(b). It also requires that prisoners be functionally literate upon release and it directs the

Bureau of Prisons to furnish clothing, money, and transportation to departing prisoners. *Id.* at § 3624(d) & (f). It makes one reference to supervised release. In subsection (e), it details the official starting date and certain tolling requirements for adult prisoners whose sentences include a term of supervised release. *Id.* at § 3624(e). Despite the government's creative reading, this largely procedural provision does not authorize supervised release for juvenile delinquents.

In fact, § 3624(e) does not even authorize supervised release for adult defendants. That is left to 18 U.S.C. § 3583, which by its terms does not apply to juveniles prosecuted under the Act. The plain language of § 3583 limits supervised release to defendants convicted of a felony or a misdemeanor. *Id.* at § 3583(a). This does not include juveniles successfully prosecuted under the Act, because adjudication under the Act results in a civil determination of status, not a felony or even misdemeanor conviction. *United States v. Gonzalez-Cervantes*, 668 F.2d 1073, 1076 (9th Cir.1981) (adjudication of juvenile delinquency is neither a felony nor a misdemeanor but a civil determination of status).

We find no statutory authority for sentencing adjudicated juvenile delinquents to supervised \*1084 release. The government's effort to read such a provision into the Juvenile Act fails. *Cf. Gasho v. United States*, 39 F.3d 1420, 1432 n. 11 (9th Cir.1994) (penal statutes must be construed strictly) (citing *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95, 5 L.Ed. 37 (1820)). The district court had no authority to sentence Appellant to supervised release. The sentence was therefore illegal. *See, e.g., United States v. Cobbs*, 967 F.2d 1555, 1557-58 (11th Cir.1992) (holding that sentence not authorized by statute is illegal); *United States v. Wainwright*, 938 F.2d 1096, 1098 (10th Cir.1991) (same); *cf. Ex Parte United States*, 242 U.S. 27, 37 S.Ct. 72, 61 L.Ed. 129 (1916) (holding that probation ordered by a judge without statutory authority violated separation of powers principles). We so hold. [FN3]

FN3. Because we hold the sentence illegal, we do not reach Appellant's other arguments attacking the revocation of his supervised release.

The district court's February 25, 1994 order modifying Appellant's supervised release and its May 27, 1994 order revoking Appellant's supervised release and sentencing him to a four-year prison term are VACATED. This case is REMANDED with

instructions to correct Appellant's sentence. The district court is further instructed to seal all materials relating to this juvenile proceeding, including its May 27, 1994 judgment and commitment, as required by 18 U.S.C. § 5038(e).

WIGGINS, Circuit Judge, concurring:

I concur in the majority's opinion. I write separately to add a few comments. The defendant in this case was originally sentenced to five years of detention for second degree murder. He then twice violated the terms of his supervised release, with his second violation resulting in a four-year sentence in an adult correctional facility. That sentence has been vacated

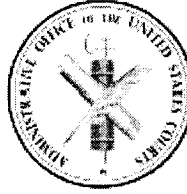
by our holding that defendant's original supervised release term was not a permissible sentencing option under the Juvenile Act.

We all hope the defendant has learned his lesson and will not find himself in legal trouble in the future. If he does run afoul of the law, however, he will no longer be able to avail himself of the lenient provisions of the Juvenile Act (the defendant is now over eighteen). Instead, he will face a criminal justice system in which the punishment more accurately reflects the gravity of the crime.

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**CHAPTER X - MAGISTRATE JUDGE'S AUTHORITY - CLASS A  
MISDEMEANORS**





LEONIDAS RALPH  
MECHAM  
Director

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

CLARENCE A. LEE, JR.  
Associate Director

WASHINGTON, D.C. 20544  
November 15, 2000

**MEMORANDUM TO:** Chief Justice of the United States  
Associate Justices of the Supreme Court  
Judges, United States Courts  
Circuit Executives  
District Court Executives  
Clerks, United States Courts  
Chief Probation Officers  
Chief Pretrial Services Officers

**SUBJECT:** The Federal Courts Improvement Act of 2000  
(INFORMATION)

The President signed S. 2915, the "Federal Courts Improvement Act of 2000" into law on November 13, 2000. The Act contains twenty-eight provisions proposed to Congress by the Judicial Conference of the United States. The Act also contains three provisions relating to judges of the United States Court of Federal Claims. Finally, the Act contains a provision (Section 313) to reauthorize certain authority of the Supreme Court Police. The Act's provisions affect Article III judges, magistrate judges, federal public defenders, appointed panel attorneys, and bankruptcy administrators. A number of provisions affect administrative, personnel, court operations and fee matters.

Attached is a copy of the text of the new law and a brief synopsis of its provisions. Further communication on particular sections of the Act from the Administrative Office program offices to those affected by changes in the law will be forthcoming. If you need further information contact Michael Blommer, Assistant Director, Office of Legislative Affairs at (202) 502-1700.

A handwritten signature in black ink, reading "Leonidas Ralph Mecham".

Leonidas Ralph Mecham

Attachments

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A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

## **Federal Courts Improvement Act of 2000**

### **Summary of Provisions**

#### **Article III Judges:**

- ▶ Amends 28 U.S.C. § 332(a) to provide for the participation of senior judges in circuit judicial councils. (Section 205)
- ▶ Amends 28 U.S.C. § 371(e) to entitle Article III judges to have contributions made to the Military Survivor Benefit Plan on their behalf from the military retirement fund even though they are ineligible to receive retired pay from that fund while in regular active service. (Section 303)
- ▶ Amends 5 U.S.C. § 5551(a) to allow federal or District of Columbia government employees to receive a lump-sum payment for accumulated and accrued leave earned during government service upon appointment as an Article III judge. (Section 310)

#### **Magistrate Judges:**

- ▶ Amends 28 U.S.C. § 631 to extend to the Judicial Conference of the United States the statutory authority to establish magistrate judge positions in the district courts in Guam and the Northern Mariana Islands. (Section 201)
- ▶ Amends 28 U.S.C. § 636 to redefine the civil and criminal contempt authority of magistrate judges. (Section 202)
- ▶ Amends 28 U.S.C. § 636(a) and 18 U.S.C. § 3401(b) and (g) to eliminate the requirement that a defendant consent to the authority of a magistrate judge in all petty offense cases, including class B misdemeanor cases that do not charge a motor vehicle offense. Also amends 18 U.S.C. § 3401(g) to permit magistrate judges to preside over Class A misdemeanor cases that involve juvenile defendants, and to provide magistrate judges with the authority to sentence juvenile defendants to terms of imprisonment in misdemeanor cases. (Section 203)

#### **Bankruptcy Court Operations:**

- ▶ Amends 28 U.S.C. § 1930(a)(2) to increase the fee for filing bankruptcy petitions under chapter 9 (debt adjustment for municipalities) from \$300 to be equal to the fee for filing petitions under chapter 11 (reorganization), currently \$800. (Section 103)
- ▶ Amends 28 U.S.C. § 1930(a) to make the total fee paid for converting a chapter 7 (liquidation) or chapter 13 (individual debt adjustment) bankruptcy case to a chapter 11 (reorganization) case equal to the filing fee for a chapter 11 case. (Section 104)

- ▶ Amends 28 U.S.C. §1930(a) to authorize the Judicial Conference to implement fees in the bankruptcy administrator program in the judicial districts in the states of Alabama and North Carolina similar to those currently imposed by 28 U.S.C. § 1930(a)(6) (chapter 11 cases). (Section 105)
- ▶ Makes a technical correction to 11 U.S.C. § 1228 by striking “1222(b)(10)” and inserting “1222(b)(9).” (Section 208)
- ▶ Amends section 406(b) of Pub. L. No. 101-162 to allow for the renumbering of the Bankruptcy Fee Schedule that is required due to the repeal of outdated fees, while retaining the current revenue structure related to the receipt of such fees. Fees established prior to the enactment of the legislation, with the exception of noticing fees, will be deposited into the general Treasury, and any fees established after that date will be deposited into the judiciary fund established under 28 U.S.C. § 1931. (Section 209)
- ▶ Amends section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Pub. L. No. 99-554; 28 U.S.C. § 581 note) to make permanent the statutory authority for bankruptcy administrators in Alabama and North Carolina. (Section 501)

**Court of Federal Claims:**

- ▶ Repeals 28 U.S.C. § 2520 providing for a filing fee for the United States Court of Federal Claims as unnecessary, given the Judicial Conference’s authority to establish a fee schedule for the Court of Federal Claims under 28 U.S.C. §1926. (Section 207)
- ▶ Amends 28 U.S.C. § 175 to provide that retired judges of the Court of Federal Claims are not subject to residence restrictions; the judge’s actual abode in which the judge customarily lives shall be deemed to be the official duty station. (Section 307)
- ▶ Amends 28 U.S.C. § 797(a) to provide that any judge of the Court of Federal Claims receiving a disability annuity under 28 U.S.C. § 178(c) who, in the estimation of the chief judge, has recovered sufficiently to render judicial service, shall be designated as a senior judge and perform the duties of a recalled judge. (Section 308)
- ▶ Adds 28 U.S.C. § 179 to provide new application and eligibility rules for current and retired judges of the Court of Federal Claims regarding federal life insurance and health benefit programs. (Section 309)

**Clerks/Certifying Officials:**

- ▶ Adds 28 U.S.C. § 613 to give the Director of the Administrative Office authority to appoint certifying officials in the various court units who will be responsible for the propriety of payments they request and to appoint disbursing officials in the various court

units who will be responsible for ensuring that payment requests are proper, certified and approved. The provision also provides for the enforcement of personal liability of certifying officials in the judicial branch and defines the grounds on which a certifying official may be required to make restitution to the government. (Section 304)

**Court Operations:**

- ▶ Allows the judiciary to retain any additional offsetting receipts derived from increases in miscellaneous fees charged in the federal courts of appeals, district courts, bankruptcy courts, the Court of Federal Claims, and the Judicial Panel on Multidistrict Litigation. Such additional amounts collected are to be deposited into the special judiciary fund in the Treasury, to be available to offset funds appropriated by Congress for the operation and maintenance of the courts. (Section 102)
- ▶ Amends 28 U.S.C. § 1865 (the Jury Selection and Service Act) to permit the chief judge to authorize the clerk of the court, under the supervision of the court (and if provided for in the court's jury selection plan), to determine whether persons are qualified, unqualified, exempt, or excused from jury service. (Section 305)
- ▶ Adds a new subsection (h) to 28 U.S.C. § 332 to permit the United States Court of Appeals for the Federal Circuit to appoint a circuit executive. (Section 306)
- ▶ Amends 28 U.S.C. § 117 to authorize Springfield, Oregon as an additional place of holding court in the District of Oregon. (Section 502)

**Defenders:**

- ▶ Amends 18 U.S.C. § 3006A(d)(2) to increase the case compensation maximum amounts for attorneys for various representations under the Criminal Justice Act. (Section 210)
- ▶ Amends 18 U.S.C. § 3006A(d)(1) to allow for attorneys to be reimbursed for reasonable costs of defending actions alleging malpractice of counsel in furnishing representational services under this section. (Section 211)
- ▶ Amends 28 U.S.C. § 2671, the Federal Tort Claims Act (FTCA), to exempt federal public defenders from the FTCA as the exclusive remedy for claims relating to representational services, to permit such claims to be made outside the FTCA, and to rely on the Criminal Justice Act's malpractice provisions in 18 U.S.C. § 3006A(g)(3). (Section 401)

**Miscellaneous:**

- ▶ Amends 28 U.S.C. § 612 to provide clarification regarding the authority and operation of the Judiciary Information Technology Fund in relation to certain executive branch policies concerning procurement and management of information technology resources. (Section 101)
- ▶ Amends 28 U.S.C. § 604 to eliminate the savings and loan case data reporting requirement from the duties of the Director of the Administrative Office. (Section 204)
- ▶ Amends Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Pub. L. No. 101-650), as amended by Pub. L. No. 105-53 to clarify that 28 U.S.C. § 471 should have been included in other provisions relating to civil justice expense and delay reduction plans that were previously sunsetted. (Section 206)
- ▶ Amends 28 U.S.C. §§ 611 and 627 to provide greater equity and parity in crediting prior federal service for purposes of retirement by the Director of the Administrative Office of the United States Courts and the Director of the Federal Judicial Center. (Section 301)
- ▶ Amends 28 U.S.C. § 996(b) to amend applicability of certain leave provisions to employees of the U.S. Sentencing Commission. (Section 302)
- ▶ Amends 5 U.S.C. § 3102(a)(1) to extend authority to the judiciary to employ personal assistants for handicapped employees. (Section 311)
- ▶ Amends 28 U.S.C. § 627 to eliminate the mandatory retirement age for the Director of the Federal Judicial Center. (Section 312)
- ▶ Amends section 9(c) of the Act entitled “An Act relating to the policing of the building and grounds of the Supreme Court of the United States” (40 U.S.C. § 13n(c)), to re-authorize certain Supreme Court Police authority until 2004. (Section 313)

# One Hundred Sixth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,  
the twenty-fourth day of January, two thousand*

## An Act

To make improvements in the operation and administration of the Federal courts,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Federal Courts Improvement Act of 2000”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

#### TITLE I—JUDICIAL FINANCIAL ADMINISTRATION

- Sec. 101. Extension of Judiciary Information Technology Fund.
- Sec. 102. Disposition of miscellaneous fees.
- Sec. 103. Increase in chapter 9 bankruptcy filing fee.
- Sec. 104. Increase in fee for converting a chapter 7 or chapter 13 bankruptcy case to a chapter 11 bankruptcy case.
- Sec. 105. Bankruptcy fees.

#### TITLE II—JUDICIAL PROCESS IMPROVEMENTS

- Sec. 201. Extension of statutory authority for magistrate judge positions to be established in the district courts of Guam and the Northern Mariana Islands.
- Sec. 202. Magistrate judge contempt authority.
- Sec. 203. Consent to magistrate judge authority in petty offense cases and magistrate judge authority in misdemeanor cases involving juvenile defendants.
- Sec. 204. Savings and loan data reporting requirements.
- Sec. 205. Membership in circuit judicial councils.
- Sec. 206. Sunset of civil justice expense and delay reduction plans.
- Sec. 207. Repeal of Court of Federal Claims filing fee.
- Sec. 208. Technical bankruptcy correction.
- Sec. 209. Technical amendment relating to the treatment of certain bankruptcy fees collected.
- Sec. 210. Maximum amounts of compensation for attorneys.
- Sec. 211. Reimbursement of expenses in defense of certain malpractice actions.

#### TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

- Sec. 301. Judicial administrative officials retirement matters.
- Sec. 302. Applicability of leave provisions to employees of the Sentencing Commission.
- Sec. 303. Payments to military survivors benefits plan.
- Sec. 304. Creation of certifying officers in the judicial branch.
- Sec. 305. Amendment to the jury selection process.
- Sec. 306. Authorization of a circuit executive for the Federal circuit.
- Sec. 307. Residence of retired judges.
- Sec. 308. Recall of judges on disability status.
- Sec. 309. Personnel application and insurance programs relating to judges of the Court of Federal Claims.

S. 2915—2

- Sec. 310. Lump-sum payment for accumulated and accrued leave on separation.
- Sec. 311. Employment of personal assistants for handicapped employees.
- Sec. 312. Mandatory retirement age for Director of the Federal Judicial Center.
- Sec. 313. Reauthorization of certain Supreme Court Police authority.

**TITLE IV—FEDERAL PUBLIC DEFENDERS**

- Sec. 401. Tort Claims Act amendment relating to liability of Federal public defenders.

**TITLE V—MISCELLANEOUS PROVISIONS**

- Sec. 501. Extensions relating to bankruptcy administrator program.
- Sec. 502. Additional place of holding court in the district of Oregon.

**TITLE I—JUDICIAL FINANCIAL  
ADMINISTRATION**

**SEC. 101. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY  
FUND.**

Section 612 of title 28, United States Code, is amended—

(1) by striking “equipment” each place it appears and inserting “resources”;

(2) by striking subsection (f) and redesignating subsections (g) through (k) as subsections (f) through (j), respectively;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated—

(A) by striking “Judiciary” each place it appears and inserting “judiciary”;

(B) by striking “subparagraph (c)(1)(B)” and inserting “subsection (c)(1)(B)”; and

(C) by striking “under (c)(1)(B)” and inserting “under subsection (c)(1)(B)”.

**SEC. 102. DISPOSITION OF MISCELLANEOUS FEES.**

For fiscal year 2001 and each fiscal year thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States under sections 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees in effect on September 30, 2000, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

**SEC. 103. INCREASE IN CHAPTER 9 BANKRUPTCY FILING FEE.**

Section 1930(a)(2) of title 28, United States Code, is amended by striking “\$300” and inserting “equal to the fee specified in paragraph (3) for filing a case under chapter 11 of title 11. The amount by which the fee payable under this paragraph exceeds \$300 shall be deposited in the fund established under section 1931 of this title”.

**SEC. 104. INCREASE IN FEE FOR CONVERTING A CHAPTER 7 OR  
CHAPTER 13 BANKRUPTCY CASE TO A CHAPTER 11 BANK-  
RUPTCY CASE.**

The flush paragraph at the end of section 1930(a) of title 28, United States Code, is amended by striking “\$400” and inserting “the amount equal to the difference between the fee specified in paragraph (3) and the fee specified in paragraph (1)”.

**SEC. 105. BANKRUPTCY FEES.**

Section 1930(a) of title 28, United States Code, is amended by adding at the end the following:

“(7) In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.”.

## **TITLE II—JUDICIAL PROCESS IMPROVEMENTS**

**SEC. 201. EXTENSION OF STATUTORY AUTHORITY FOR MAGISTRATE  
JUDGE POSITIONS TO BE ESTABLISHED IN THE DISTRICT  
COURTS OF GUAM AND THE NORTHERN MARIANA  
ISLANDS.**

Section 631 of title 28, United States Code, is amended—

(1) by striking the first two sentences of subsection (a) and inserting the following: “The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court.”; and

(2) by inserting in the first sentence of paragraph (1) of subsection (b) after “Commonwealth of Puerto Rico,” the following: “the Territory of Guam, the Commonwealth of the Northern Mariana Islands,”.

**SEC. 202. MAGISTRATE JUDGE CONTEMPT AUTHORITY.**

Section 636(e) of title 28, United States Code, is amended to read as follows:

“(e) CONTEMPT AUTHORITY.—

“(1) IN GENERAL.—A United States magistrate judge serving under this chapter shall have within the territorial jurisdiction prescribed by the appointment of such magistrate judge the power to exercise contempt authority as set forth in this subsection.

“(2) SUMMARY CRIMINAL CONTEMPT AUTHORITY.—A magistrate judge shall have the power to punish summarily by fine or imprisonment such contempt of the authority of such magistrate judge constituting misbehavior of any person in the magistrate judge’s presence so as to obstruct the administration of justice. The order of contempt shall be issued under the Federal Rules of Criminal Procedure.

“(3) ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under



section 3401 of title 18, the magistrate judge shall have the power to punish, by fine or imprisonment, criminal contempt constituting disobedience or resistance to the magistrate judge's lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing under the Federal Rules of Criminal Procedure.

“(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions under any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

“(5) CRIMINAL CONTEMPT PENALTIES.—The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

“(6) CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT.—Upon the commission of any such act—

“(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

“(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where—

“(i) the act committed in the magistrate judge's presence may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection,

“(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge, or

“(iii) the act constitutes a civil contempt, the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served, upon any person whose behavior is brought into question under this paragraph, an order requiring such person to appear before a district judge upon a day certain to show cause why that person should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

“(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS.—The appeal of an order of contempt under this subsection shall be made to the court of appeals in cases proceeding under subsection (c) of this section. The appeal of any other order

of contempt issued under this section shall be made to the district court.”.

**SEC. 203. CONSENT TO MAGISTRATE JUDGE AUTHORITY IN PETTY OFFENSE CASES AND MAGISTRATE JUDGE AUTHORITY IN MISDEMEANOR CASES INVOLVING JUVENILE DEFENDANTS.**

**(a) AMENDMENTS TO TITLE 18.—**

(1) **PETTY OFFENSE CASES.**—Section 3401(b) of title 18, United States Code, is amended by striking “that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,” after “petty offense”.

(2) **CASES INVOLVING JUVENILES.**—Section 3401(g) of title 18, United States Code, is amended—

(A) by striking the first sentence and inserting the following: “The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.”;

(B) in the second sentence by striking “any other class B or C misdemeanor case” and inserting “the case of any misdemeanor, other than a petty offense,”; and

(C) by striking the last sentence.

**(b) AMENDMENTS TO TITLE 28.**—Section 636(a) of title 28, United States Code, is amended by striking paragraphs (4) and (5) and inserting the following:

“(4) the power to enter a sentence for a petty offense; and

“(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.”.

**SEC. 204. SAVINGS AND LOAN DATA REPORTING REQUIREMENTS.**

Section 604 of title 28, United States Code, is amended in subsection (a) by striking the second paragraph designated (24).

**SEC. 205. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.**

Section 332(a) of title 28, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council. Service as a member of a judicial council by a judge retired from regular active service under section 371(b) may not be considered for meeting the requirements of section 371(f)(1) (A), (B), or (C).”; and

(2) in paragraph (5) by striking “retirement,” and inserting “retirement under section 371(a) or 372(a) of this title.”.

**SEC. 206. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.**

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101-650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105-53 (111 Stat. 1173), is amended by inserting “471,” after “sections”.

**SEC. 207. REPEAL OF COURT OF FEDERAL CLAIMS FILING FEE.**

Section 2520 of title 28, United States Code, and the item relating to such section in the table of contents for chapter 165 of such title, are repealed.

**SEC. 208. TECHNICAL BANKRUPTCY CORRECTION.**

Section 1228 of title 11, United States Code, is amended by striking “1222(b)(10)” each place it appears and inserting “1222(b)(9)”.

**SEC. 209. TECHNICAL AMENDMENT RELATING TO THE TREATMENT OF CERTAIN BANKRUPTCY FEES COLLECTED.**

(a) AMENDMENT.—The first sentence of section 406(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1016; 28 U.S.C. 1931 note) is amended by striking “service enumerated after item 18” and inserting “service not of a kind described in any of the items enumerated as items 1 through 7 and as items 9 through 18, as in effect on November 21, 1989,”.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply with respect to fees collected before the date of enactment of this Act.

**SEC. 210. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.**

Section 3006A(d)(2) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking “\$3,500” and inserting “\$5,200”; and

(B) by striking “\$1,000” and inserting “\$1,500”;

(2) in the second sentence by striking “\$2,500” and inserting “\$3,700”;

(3) in the third sentence—

(A) by striking “\$750” and inserting “\$1,200”; and

(B) by striking “\$2,500” and inserting “\$3,900”;

(4) by inserting after the second sentence the following: “For representation of a petitioner in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a judicial officer of the district court. For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court.”; and

(5) in the last sentence by striking “\$750” and inserting “\$1,200”.

**SEC. 211. REIMBURSEMENT OF EXPENSES IN DEFENSE OF CERTAIN MALPRACTICE ACTIONS.**

Section 3006A(d)(1) of title 18, United States Code, is amended by striking the last sentence and inserting “Attorneys may be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the United States magistrate or the court, and the costs of defending actions alleging malpractice of counsel in furnishing representational services under this section. No reimbursement for expenses in defending against malpractice claims shall be made if a judgment of malpractice is rendered against the counsel furnishing representational services under this section. The United States magistrate or the court shall make determinations relating to reimbursement of expenses under this paragraph.”.

### **TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS**

#### **SEC. 301. JUDICIAL ADMINISTRATIVE OFFICIALS RETIREMENT MATTERS.**

(a) **DIRECTOR OF ADMINISTRATIVE OFFICE.**—Section 611 of title 28, United States Code, is amended—

(1) in subsection (d), by inserting “a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives,” after “Congress,”;

(2) in subsection (b)—

(A) by striking “who has served at least fifteen years and” and inserting “who has at least fifteen years of service and has”; and

(B) in the first undesignated paragraph, by striking “who has served at least ten years,” and inserting “who has at least ten years of service,”; and

(3) in subsection (c)—

(A) by striking “served at least fifteen years,” and inserting “at least fifteen years of service,”; and

(B) by striking “served less than fifteen years,” and inserting “less than fifteen years of service,”.

(b) **DIRECTOR OF THE FEDERAL JUDICIAL CENTER.**—Section 627 of title 28, United States Code, is amended—

(1) in subsection (e), by inserting “a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives,” after “Congress,”;

(2) in subsection (c)—

(A) by striking “who has served at least fifteen years and” and inserting “who has at least fifteen years of service and has”; and

(B) in the first undesignated paragraph, by striking “who has served at least ten years,” and inserting “who has at least ten years of service,”; and

(3) in subsection (d)—

(A) by striking “served at least fifteen years,” and inserting “at least fifteen years of service,”; and

(B) by striking “served less than fifteen years,” and inserting “less than fifteen years of service,”.

#### **SEC. 302. APPLICABILITY OF LEAVE PROVISIONS TO EMPLOYEES OF THE SENTENCING COMMISSION.**

(a) **IN GENERAL.**—Section 996(b) of title 28, United States Code, is amended by striking all after “title 5,” and inserting “except the following: chapters 45 (Incentive Awards), 63 (Leave), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance), and subchapter VI of chapter 55 (Payment for accumulated and accrued leave).”.

(b) SAVINGS PROVISION.—Any leave that an individual accrued or accumulated (or that otherwise became available to such individual) under the leave system of the United States Sentencing Commission and that remains unused as of the date of the enactment of this Act shall, on and after such date, be treated as leave accrued or accumulated (or that otherwise became available to such individual) under chapter 63 of title 5, United States Code.

**SEC. 303. PAYMENTS TO MILITARY SURVIVORS BENEFITS PLAN.**

Section 371(e) of title 28, United States Code, is amended by inserting after “such retired or retainer pay” the following: “, except such pay as is deductible from the retired or retainer pay as a result of participation in any survivor’s benefits plan in connection with the retired pay,”.

**SEC. 304. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.**

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

**“§ 613. Disbursing and certifying officers**

“(a) DISBURSING OFFICERS.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary. Such disbursing officers shall—

“(1) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

“(2) examine payment requests as necessary to ascertain whether they are in proper form, certified, and approved; and

“(3) be held accountable for their actions as provided by law, except that such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

“(b) CERTIFYING OFFICERS.—

“(1) IN GENERAL.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. Such certifying officers shall be responsible and accountable for—

“(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

“(B) the legality of the proposed payment under the appropriation or fund involved; and

“(C) the correctness of the computations of certified payment requests.

“(2) LIABILITY.—The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States

for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

“(c) RIGHTS.—A certifying or disbursing officer—

“(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

“(2) is entitled to relief from liability arising under this section in accordance with title 31.

“(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following:

“613. Disbursing and certifying officers.”.

(c) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to authorize the hiring of any Federal officer or employee.

(d) DUTIES OF DIRECTOR.—Section 604(a)(8) of title 28, United States Code, is amended to read as follows:

“(8) Disburse appropriations and other funds for the maintenance and operation of the courts;”.

#### SEC. 305. AMENDMENT TO THE JURY SELECTION PROCESS.

Section 1865 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting “or the clerk under supervision of the court if the court’s jury selection plan so authorizes,” after “jury commission;”, and

(2) in subsection (b) by inserting “or the clerk if the court’s jury selection plan so provides,” after “may provide,”.

#### SEC. 306. AUTHORIZATION OF A CIRCUIT EXECUTIVE FOR THE FEDERAL CIRCUIT.

Section 332 of title 28, United States Code, is amended by adding at the end the following:

“(h)(1) The United States Court of Appeals for the Federal Circuit may appoint a circuit executive, who shall serve at the pleasure of the court. In appointing a circuit executive, the court shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include the duties specified in subsection (e) of this section, insofar as such duties are applicable to the Court of Appeals for the Federal Circuit.

“(2) The circuit executive shall be paid the salary for circuit executives established under subsection (f) of this section.

“(3) The circuit executive may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

“(4) The circuit executive and staff shall be deemed to be officers and employees of the United States within the meaning of the statutes specified in subsection (f)(4).

“(5) The court may appoint either a circuit executive under this subsection or a clerk under section 711 of this title, but not both, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive.”

**SEC. 307. RESIDENCE OF RETIRED JUDGES.**

Section 175 of title 28, United States Code, is amended by adding at the end the following:

“(c) Retired judges of the Court of Federal Claims are not subject to restrictions as to residence. The place where a retired judge maintains the actual abode in which such judge customarily lives shall be deemed to be the judge’s official duty station for the purposes of section 456 of this title.”

**SEC. 308. RECALL OF JUDGES ON DISABILITY STATUS.**

Section 797(a) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) Any judge of the Court of Federal Claims receiving an annuity under section 178(c) of this title (pertaining to disability) who, in the estimation of the chief judge, has recovered sufficiently to render judicial service, shall be known and designated as a senior judge and may perform duties as a judge when recalled under subsection (b) of this section.”

**SEC. 309. PERSONNEL APPLICATION AND INSURANCE PROGRAMS RELATING TO JUDGES OF THE COURT OF FEDERAL CLAIMS.**

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by inserting after section 178 the following:

**“§ 179. Personnel application and insurance programs**

“(a) For purposes of construing and applying title 5, a judge of the United States Court of Federal Claims shall be deemed to be an ‘officer’ under section 2104(a) of such title.

“(b)(1)(A) For purposes of construing and applying chapter 89 of title 5, a judge of the United States Court of Federal Claims who—

“(i) is retired under subsection (b) of section 178 of this title, and

“(ii) at the time of becoming such a retired judge—

“(I) was enrolled in a health benefits plan under chapter 89 of title 5, but

“(II) did not satisfy the requirements of section 8905(b)(1) of title 5 (relating to eligibility to continue enrollment as an annuitant),

shall be deemed to be an annuitant meeting the requirements of section 8905(b)(1) of title 5, in accordance with the succeeding provisions of this paragraph, if the judge gives timely written notification to the chief judge of the court that the judge is willing to be called upon to perform judicial duties under section 178(d) of this title during the period of continued eligibility for enrollment, as described in subparagraph (B)(ii) or (C)(ii) (whichever applies).

“(B) Except as provided in subparagraph (C)—

“(i) in order to be eligible for continued enrollment under this paragraph, notification under subparagraph (A) shall be made before the first day of the open enrollment period preceding the calendar year referred to in clause (ii)(II); and

“(ii) if such notification is timely made, the retired judge shall be eligible for continued enrollment under this paragraph for the period—

“(I) beginning on the date on which eligibility would otherwise cease, and

“(II) ending on the last day of the calendar year next beginning after the end of the open enrollment period referred to in clause (i).

“(C) For purposes of applying this paragraph for the first time in the case of any particular judge—

“(i) subparagraph (B)(i) shall be applied by substituting ‘the expiration of the term of office of the judge’ for the matter following ‘before’; and

“(ii)(I) if the term of office of such judge expires before the first day of the open enrollment period referred to in subparagraph (B)(i), the period of continued eligibility for enrollment shall be as described in subparagraph (B)(ii); but

“(II) if the term of office of such judge expires on or after the first day of the open enrollment period referred to in subparagraph (B)(i), the period of continued eligibility shall not end until the last day of the calendar year next beginning after the end of the next full open enrollment period beginning after the date on which the term expires.

“(2) In the event that a retired judge remains enrolled under chapter 89 of title 5 for a period of 5 consecutive years by virtue of paragraph (1) (taking into account only periods of coverage as an active judge immediately before retirement and as a retired judge pursuant to paragraph (1)), then, effective as of the day following the last day of that 5-year period—

“(A) the provisions of chapter 89 of title 5 shall be applied as if such judge had satisfied the requirements of section 8905(b)(1) on the last day of such period; and

“(B) the provisions of paragraph (1) shall cease to apply.

“(3) For purposes of this subsection, the term ‘open enrollment period’ refers to a period described in section 8905(g)(1) of title 5.

“(c) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge of the United States Court of Federal Claims in regular active service or who is retired under section 178 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 28, United States Code, is amended by striking the item relating to section 179 and inserting the following:

“179. Personnel application and insurance programs.”.

**SEC. 310. LUMP-SUM PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE ON SEPARATION.**

Section 5551(a) of title 5, United States Code, is amended in the first sentence by striking “or elects” and inserting “, is



transferred to a position described under section 6301(2)(B)(xiii) of this title, or elects”.

**SEC. 311. EMPLOYMENT OF PERSONAL ASSISTANTS FOR HANDICAPPED EMPLOYEES.**

Section 3102(a)(1) of title 5, United States Code, is amended—

- (1) in subparagraph (A) by striking “and”;
- (2) in subparagraph (B) by adding “and” after the semicolon; and

- (3) by adding at the end the following:

“(C) an office, agency, or other establishment in the judicial branch;”.

**SEC. 312. MANDATORY RETIREMENT AGE FOR DIRECTOR OF THE FEDERAL JUDICIAL CENTER.**

(a) **IN GENERAL.**—Section 627 of title 28, United States Code, is amended—

- (1) by striking subsection (a); and
- (2) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 376 of title 28, United States Code, is amended—

- (1) in paragraph (1)(D) by striking “subsection (b)” and inserting “subsection (a)”; and
- (2) in paragraph (2)(D) by striking “subsection (c) or (d)” and inserting “subsection (b) or (c)”.

**SEC. 313. REAUTHORIZATION OF CERTAIN SUPREME COURT POLICE AUTHORITY.**

Section 9(c) of the Act entitled “An Act relating to the policing of the building and grounds of the Supreme Court of the United States”, approved August 18, 1949 (40 U.S.C. 13n(c)) is amended in the first sentence by striking “2000” and inserting “2004”.

## **TITLE IV—FEDERAL PUBLIC DEFENDERS**

**SEC. 401. TORT CLAIMS ACT AMENDMENT RELATING TO LIABILITY OF FEDERAL PUBLIC DEFENDERS.**

Section 2671 of title 28, United States Code, is amended in the second undesignated paragraph—

- (1) by inserting “(1)” after “includes”; and
- (2) by striking the period at the end and inserting the following: “, and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18.”.

## **TITLE V—MISCELLANEOUS PROVISIONS**

**SEC. 501. EXTENSIONS RELATING TO BANKRUPTCY ADMINISTRATOR PROGRAM.**

Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

- (1) in subparagraph (A), in the matter following clause (ii), by striking “or October 1, 2002, whichever occurs first,”; and
- (2) in subparagraph (F)—
  - (A) in clause (i)—
    - (i) in subclause (II), by striking “or October 1, 2002, whichever occurs first”; and
    - (ii) in the matter following subclause (II)—
      - (I) by striking “October 1, 2003, or”; and
      - (II) by striking “, whichever occurs first”; and
  - (B) in clause (ii), in the matter following subclause (II)—
    - (i) by striking “October 1, 2003, or”; and
    - (ii) by striking “, whichever occurs first”.

**SEC. 502. ADDITIONAL PLACE OF HOLDING COURT IN THE DISTRICT OF OREGON.**

Section 117 of title 28, United States Code, is amended by striking “Eugene” and inserting “Eugene or Springfield”.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*